SUPREME COURT OF THE UNITED STATES.

No. 105.

NELSON, CARLETON & CO., AND AL., APPELLANTS,

vs.

JOHN J. HILL AND AL.

ON APPEAL FROM THE CIRCUIT COURT U. S. FOR ALABAMA.

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J. & G. S. Gideon, printers.

Pleas had before the hon. circuit court of the United States, for the ninth judicial circuit, and southern district of Alabama, at a term thereof begun and held in and for said district at Mobile, on the second Monday of March, in the year of our Lord one thousand eight hundred and forty-three, before their honors John McKinley, presiding judge, and William Crawford, judge of said court.

Be it remembered, that heretofore, to wit, on , in the year of our Lord one thousand eight hundred and forty- was filed in the clerk's office of said court the following record and proceedings, with the citation annexed, in the words and figures following, to wit:

THE UNITED STATES OF AMERICA:

The President of the United States to the marshal of the United States for the middle district of Alabama, greeting:

Whereas the complainants in a certain suit, lately pending in the district court of the United States, for the middle district of Alabama, in which a final decree was entered, has prayed an appeal from the final decree in the said cause to the circuit court of the United States for the southern district of Alabama, which appeal is allowed; in which cause certain persons using the name, style, and firm of Nelson, Carleton & Co., and Parish, Marshall & Co., are complainants, and Joseph Hill, James Gray, Anne Gray, and her husband Sexton, and others, are defendants; this is to command you to summon them, the defendants, to appear before the circuit court of the United States, for the southern district of Alabama, to be held in the city of Mobile, on the 4th Monday of November next, then and there to hear what the said court may do in this behalf.

Witness hon. Wm. Crawford, judge of the said district court, this 4th Monday of May, A. D. 1842, and of American independence the 65th year.

Issued, October 6th, 1842.

WM. CRAWFORD.

We acknowledge service of this citation, as solicitors for the defendants, Oct. 14th, 1842.

PECK & CLARK,
Attorneys for defendants.

To the honorable Wm. Crawford, judge of the district court of the United States for the middle district of Alabama.

DISTRICT COURT OF THE UNITED STATES,
Middle district of Alabama:

NELSON, CARLETON & CO., PARISH, MARSHALL & CO.
vs.
JOHN J. HILL, JAMES GRAY, ANNE SEXTON and husband, are defendants.

The complainants in the suit of the aforegoing title decided in the

district court of the United States, for the middle district of Alabama, on chancery side of the said court, pray an appeal to the circuit court of the United States, for the ninth judicial circuit, for the southern district of Alabama. The appeal is taken from the final decree in the said cause dismissing the bill filed by the complainants against the said defendants. For the complainants.

CAMPBELL & CHANDLER.

Appeal allowed, the complainants to give bond for the payment of costs, in the sum of two hundred dollars to the defendants in the suit, October 6th, 1842.

WM. CRAWFORD.

Know all men by these presents, that we, John G. Nelson, Charles G. Carleton, and Wm. H. Stewart, partners by the name of Nelson, Carleton & Co., and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, partners by the name of Parish, Marshall & Co., are held and firmly bound unto John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton, and Ann R. Sexton, his wife (formerly Ann R. Gray,) and James Gray, in the sum of two hundred dollars, to be paid to the said John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton, and Ann R., his wife, and James Gray, their executor or administrator; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this 18th day of October, A. D. 1842.

Whereas the above named John G. Nelson, Charles G. Carleton, and Wm. H. Stewart, partners by the name of Nelson, Carleton & Co., and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, partners by the name of Parish, Marshall & Co., have prosecuted an appeal to the circuit court of the United [States,] for the ninth judicial circuit, and southern district of Alabama, from the final decree rendered by the district court of the United States, for the middle district of Alabama, (exercising chancery jurisdiction,) dismissing the bill of complaint filed by said Nelson, Carleton & Co., and Parish, Marshall & Co., complainants against the said John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton, and Ann R., his wife, and James Gray, defendants.

Now, therefore, the condition of this obligation is such, that if the above named John G. Nelson, Charles G. Carleton, and Wm. H. Stewart, partners by the name of Nelson, Carleton & Co., and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, partners by the name of Parish, Marshall & Co., shall prosecute their said appeal to effect, and answer and pay all such damages and costs as shall be decreed against them, if they shall fail to

are exhonorated because the claims were not exhibited in 18 months after administration on the respective estates was committed; but your orators charge, in answer to this poor pretence, that the debt was created in the State of New York, and that all your orators reside beyond the limits of the State of Alabama, and have so, since the debts were created; and that they had well hoped to have made the debt out of said Hill. And at other times, the said defendants state, that the said estates have been settled, and that they have no funds in hand, and no goods and chattels out of which the same can be satisfied.

But your orators state to your honor, that these pretences are untrue; that the defendants are fully able to pay to your orators judgments and debts out of the estates of Whitsett and Gray; that, although the said Lipscomb and Hardin have sold the personality of the said estate, yet they have notes and money to an amount fully sufficient to pay their proportion of the said debt; and that the said Anne R. Gray is in the possession of slaves, *cotton* notes, book accounts of her intestate, all of which are liable to the payment of these debts; all of which pretences, therefore, they say, are contrary to equity and good conscience. In tender consideration whereof, and forasmuch as your orators are remediless at law, and have no redress save in a court of chancery—to the end, therefore, that the said Joseph J. Hill, John P. Lipscomb, Absalem Hardin, and Anne R. Gray, may be made defendants to this bill, and answer the allegations thereof, and particularly that they may answer whether the said Joseph J. Hill is solvent or otherwise; and, if solvent, he may set forth the *dis*cription of his estate, in lands, by the section, township, and range—whether any mortgages, deeds of trust, assignments, or other incumbrances, exist upon it, and whether he has slaves, &c., personal property; and that he may set forth if any mortgages, deeds of trust, or other incumbrances, exist upon them; and that he may now state, on his oath, what amount is due on each; and that they may further answer as to the estate of Wm. H. Whitsett and Thomas Gray—what property there is, and in whose hands, and if any settlement of the estate has taken place; and that they may set forth particularly its condition and means of paying your orators' debts; and that they may answer when the said Wm. H. Whitsett died, when the said Thomas Gray died. Your orators pray that accounts be taken that your orators' demand, and the demands of such of the creditors of Whitsett & Gray, or Whitsett, Gray & Co., may be established as debts against their estates, as will come in and *and* contribute to the cost and expenses of this suit. And your orators pray judgment of the same, and that writs of subpœna may issue to the said several defendants, and for such other and further relief as is consistent with equity and good conscience.

GORDON, CAMPBELL, & CHANDLER,
Sol'rs for comp'ts.

Writ.

And on the said 24th day of January, A. D. 1840, the following writ of subpœna was issued from the clerk's office of said court, to wit:

UNITED STATES OF AMERICA,
District court of the United States
for the middle district of Alabama:

The President of the United States to the marshall of said district, greeting:

You are hereby commanded to summon Joseph J. Hill, John P. Lipscomb, Absalem Hardin, and Anne R. Gray, by John G. Nelson, Charles G. Carleton, and Wm. H. Stewart, partners, by the name of Nelson, Carleton & Co., who are citizens of the State of New York, and Henry Parish, Daniel Parish, John R. Marshall, Jno. B. Seaman, Thomas Parish, and Leroy M. Wiley, who are citizens of the State of New York, and partners by the name of Parish Marshall & Co. Herein fail not; and have you then and there this writ.

Witness the hon. William Crawford, judge of the said court, this first Monday after the fourth Monday of November, in the year of our Lord one thousand eight hundred and thirty-nine.

[L. S.]

Issued the twenty-fourth day of January, in the year of our Lord eighteen hundred and forty.

Attest: A. G. GOOCH,
Clerk Dist. Ct. Mid. Dist. of Alabama.

Received 7th February, 1840. Executed in full 22nd April, 1840, on all but Ann R. Gray.

R. L. CRAWFORD,
U. S. marshal.
By J. A. BEAL, *D. M.*

Executed on Ann R. Sexton, late Ann R. Gray, the same day.

R. L. CRAWFORD,
U. S. marshal.
By J. A. BEAL, *D. M.*

And afterwards, to wit, at the term of said court, begun and held at Tuscaloosa, on the fourth Monday of May, A. D. 1840—Present, the hon. William Crawford, judge of said court—the following proceedings were had, to wit:

NELSON, CARLETON & Co., and PARISH, MARSHALL & Co., compl'ts,
vs.
JOHN J. HILL et al.
} In chancery.

It appearing, to the satisfaction of the court, that Ann R. Gray, one of the defendants in this cause, has intermarried with Lorenzo Sexton, on motion of said Sexton, by his solicitor, it is ordered by the court, that he be made a party defendant to this cause, and that this cause be continued till the next term of this court.

And afterwards, to wit, on the third day of December, A. D. 1840, was filed in the clerk's office of said court, by said John P. Lipscomb

are exhonorated because the claims were not exhibited in 18 months after administration on the respective estates was committed; but your orators charge, in answer to this poor pretence, that the debt was created in the State of New York, and that all your orators reside beyond the limits of the State of Alabama, and have so, since the debts were created; and that they had well hoped to have made the debt out of said Hill. And at other times, the said defendants state, that the said estates have been settled, and that they have no funds in hand, and no goods and chattels out of which the same can be satisfied.

But your orators state to your honor, that these pretences are untrue; that the defendants are fully able to pay to your orators judgments and debts out of the estates of Whitsett and Gray; that, although the said Lipscomb and Hardin have sold the personality of the said estate, yet they have notes and money to an amount fully sufficient to pay their proportion of the said debt; and that the said Anne R. Gray is in the possession of slaves, *cotton* notes, book accounts of her intestate, all of which are liable to the payment of these debts; all of which pretences, therefore, they say, are contrary to equity and good conscience. In tender consideration whereof, and forasmuch as your orators are remediless at law, and have no redress save in a court of chancery—to the end, therefore, that the said Joseph J. Hill, John P. Lipscomb, Absalem Hardin, and Anne R. Gray, may be made defendants to this bill, and answer the allegations thereof, and particularly that they may answer whether the said Joseph J. Hill is solvent or otherwise; and, if solvent, he may set forth the *dis*cription of his estate, in lands, by the section, township, and range—whether any mortgages, deeds of trust, assignments, or other incumbrances, exist upon it, and whether he has slaves, &c., personal property; and that he may set forth if any mortgages, deeds of trust, or other incumbrances, exist upon them; and that he may now state, on his oath, what amount is due on each; and that they may further answer as to the estate of Wm. H. Whitsett and Thomas Gray—what property there is, and in whose hands, and if any settlement of the estate has taken place; and that they may set forth particularly its condition and means of paying your orators' debts; and that they may answer when the said Wm. H. Whitsett died, when the said Thomas Gray died. Your orators pray that accounts be taken that your orators' demand, and the demands of such of the creditors of Whitsett & Gray, or Whitsett, Gray & Co., may be established as debts against their estates, as will come in and *and* contribute to the cost and expenses of this suit. And your orators pray judgment of the same, and that writs of subpœna may issue to the said several defendants, and for such other and further relief as is consistent with equity and good conscience.

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NELSON, CARLETON & Co., and PARISH, MARSHALL & Co., compl'ts,
vs.
JOHN J. HILL et al.
} In chancery.

It appearing, to the satisfaction of the court, that Ann R. Gray, one of the defendants in this cause, has intermarried with Lorenzo Sexton, on motion of said Sexton, by his solicitor, it is ordered by the court, that he be made a party defendant to this cause, and that this cause be continued till the next term of this court.

And afterwards, to wit, on the third day of December, A. D. 1840, was filed in the clerk's office of said court, by said John P. Lipscomb

and Absalem Hardin, their answers to complainants' bill, together with the exhibits therein refer*ed* to; which said answer and exhibits are in the words and figures following, to wit:

The answer of John P. Lipscomb and Absalem Hardin, administrators of all and singular the goods and chattels, rights and credits, of William H. Whitsett, dec'd, to the bill of complaint of Nelson, Carleton & Co., and Parish, Marshall & Co., filed and exhibited against the said respondents, together with John J. Hill, surviving partner of William H. Whitsett and Thomas Gray, both dec'd, and Ann R. Gray, administratrix of the said Thomas Gray, dec'd, in the district court of the United States for the middle district of Alabama. These respondents, now and at all times hereafter, saving and reserving to themselves all manner of advantage and benefit of excepting to the many errors, uncertainties, and insufficiencies in the said bill of complaint contained, in manner and form as therein shewn, nevertheless, for answer thereto, or to so much and such parts thereof as they are advised and believe it material for them to make answer unto, answer and say, that they know nothing of the several notes, bill claims, or judgments of the said several complainants, as stated and set forth in the said bill of complaint, otherwise than from the said bill; that the said claims, or any or either of them, have at any time been presented to these respondents, or either of them; nor do they know, or admit, that any executions in favor of the said complainants have ever been issued or returned, as stated in the said bill of complaint; and if there be any such notes, bills, judgments, or executions, as the said complainants allege, they insist that they shall be held to strict proof of the same, and of every and each one of them. These respondents have no knowledge or belief that the bill of exchange alle*d*ged to *have* been drawn by Whitsett, Gray & Co., on John C. Sims & Co., in favor of the complainants, Parish, Marshall & Co., for the sum of nineteen hundred and one dollars and fifty-six cents, dated 17th May, 1834, payable at four months, was drawn without any funds of the drawers in the hands of the drawees, or without a reasonable belief or expectation that the same would be duly honored; neither do they know, or admit, that said bill was duly or legally protested at maturity, or notice of protest given in due time; nor that the said drawers wrote to the said drawees to refuse acceptance of said bill; and they deny that the note *dis*cribed in the said [bill] of complaint as "their," (meaning the said Whitsett, Gray & Co.,) "certain note, date*d* November, 1832, of Whitsett & Gray aforesaid, due twelve months after date, payable to White, Brother & Co., is the note of the said Whitsett, Gray & Co., or was ever made by them; that if there be such a note, which they do not admit, it was made by the said William H. Whitsett and Thomas Gray, merchants, &c., under the name and firm of Whitsett & Gray only; that the said John J. Hill was not a member of said firm of Whitsett & Gray, but of the firm of Whitsett, Gray & Co., alone.

Further answering, these respondents admit that the said Thomas Gray and William H. Whitsett are both dead; the *the* said Thomas Gray died on the day of , A. D. 1835, leaving the

said William H. Whitsett surviving; and the said William H. Whitsett died on the day of October, 1835; that the said William H. Whitsett was the sole surviving partner of the firm of Whitsett & Gray, and that, on the death of the said William H. Whitsett, the said John J. Hill became the sole surviving partner of the firm of Whitsett, Gray & Co., and the said respondents, as administrators, are the legal representatives of William H. Whitsett, dec'd; but they *they* deny that they have reported his estate insolvent to the county court of Greene, or to any other court; although, if the said claims of the said complainants, as alleged in the said bill of complaint, be well and truly founded, and should be considered as valid against the estate, it will be insolvent, as the residue of the said estate, in their hands, is insufficient to pay the same, or any considerable part thereof, as will hereinafter be more particularly shewn. These respondents do not know or admit that executions have been issued against the aforesaid John J. Hill, surviving partner, &c.; and that the same have been returned, "no property found," as charged in the said bill of complaint; neither do they know or admit, that he is insolvent, and, if he is so, the said complainants, as they, the said respondents, are advised, have not taken the necessary legal steps to make it so appear. These respondents, residing, as they do, at the distance of about thirty miles from the said John J. Hill, and not being conversant with his business and affairs, do not know whether he has either incumbered or secreted his property, so that it cannot be reached by execution, as the said complainants have charged he has; and, if he has so incumbered or secreted his property, these respondents are not informed, nor do they believe that the said complainants have instituted or taken any proceedings for the purpose of removing any such incumbrance, or discovering the property so concealed, so as to subject the same to the payment and satisfaction of the said claims, as they were bound to have *to* done before proceeding against these respondents, in the manner they have attempted.

Further answering, these respondents say, that all the goods, merchandize, and other personal property of the said William H. Whitsett, dec'd, either in his own personal and exclusive right, or as surviving partner of the said Thomas Gray, dec'd, has been sold; and that the accounts and statements hereunto annexed, marked exhibits A, B, C, D, E, and F, show truly, so far as these respondents know or believe, the situation of the estate of the said William H. Whitsett, deceased, as well what belonged to him, in his personal and exclusive right, as what he was possessed of as surviving partner of said Gray; also the proceeds of certain real estate of the said William H. Whitsett, dec'd, sold under an order of the orphans' court of Marengo county, so far as the estate has come to the hands of these respondents, or either of them, to be administered; and that they have fully administered the said estate of the said William H., so far as the same has in any way come to their hands to be administered, except so far as is shewn in and by the said accounts and statement exhibited as aforesaid; that exhibit A is an account current between these respondents and John W. Henley, esq., attorney, in whose

hands they placed nearly all the notes and accounts of the said William H. Whitsett, dec'd, as also those taken and received by these respondents themselves as administrators on the sale of the personal property of the said William H. Whitsett. The said account embraces, so far as it goes, receipts and disbursements relating to the estate of the said William H. Whitsett, as surviving partner of the said Thomas Gray; exhibit B is also an account of these respondents with the said John W. Henley, esq., shewing the receipt of certain monies on account of the real estate of the said William H. Whitsett, dec'd, as well as the manner in which the same was disbursed; exhibit C is an account of these respondents with the said John W. Henley, esq., and John T. Lomax, esq., with whom the said Henley became associated as a partner after the said Henley was first retained by these respondents as their general attorney and agent, all the monies of which the said account shews the receipt was for the real estate of the said Whitsett, except the sums received of Lee Lipscomb, and A. W. Thompson, and B. Talliaferro, the first being $75, and the latter $72 $\frac{28}{100}$; the said account also shews the manner in which the whole amount shewn by that acct. to have been received was disbursed and laid out, part of said disbursements being on account of the firm of Whitsett and Gray, and part on account of Whitsett exclusively. The sum of twenty dollars should be deducted from the said disbursements, the same being on account of one of these respondents, John P. Lipscomb, personally; exhibit D is a list of the accounts and notes of the firm of Whitsett & Gray remaining unsettled and unpaid, and much the *lorg*er portion of which are perfectly desperate. These respondents, from the information they have, are not capable of distinguishing what part of the same may be collected, but they think it would amount to but a very small part of the whole sum; all of the said accounts and notes have, for several years past, been in the hands of the aforesaid J. W. Henley, or the said Henley and Lomax, for collection, *and they have been unable;* both of whom are esteemed attentive and sufficient collectors, and they have been unable to collect the said notes and accounts; exhibit E contains an account of certain receipts and disbursements by these respondents, on account of the said intestate, as surviving partner of the said Thomas Gray, dec'd. It will also be *pre*ceived by the said accounts that part of the moneys therein charged against these respondents were received by them, or one of them, from the said John W. Henley, or the said Henley and Lomax, their attornies and agents, and are charged in their said accounts; exhibit F contains a list of notes and accounts remaining in the hands of these respondents in favor of William H. Whitsett, or the said firm of Whitsett & Gray, and which are either insolvent and desperate, or against which there are effects existing to the full amount, so that none of the same have been collected. And these respondents further answer and say, that they are bound, and will be compel*ed* to pay large amounts of costs which they have already incurred in *in*deavoring to settle the estate of their testator and in prosecuting claims from which nothing has, or can be made; and although they do not know the precise amount of the

same, yet they think they can safely say the amount will not be less than three hundred dollars. In addition to which, these respondents say, that they are justly entitled to reasonable commissions and reward for settling up and administering the estate of their said intestate, and that, as yet, they have not received any thing whatever; and they hereby interpose and insist on their being permitted to retain whatever amount shall be deemed just, reasonable, and usual for the services they have performed as administrators as aforesaid.

These respondents have not as yet made a final settlement of the estate of their *testator;* but they know the situation of it sufficiently well to say, that there is not in their hands assets that are available, sufficient to pay the claims of the said complainants, or any considerable part thereof; and taking into consideration the claim for cost, &c., for which they are bound, and a compensation for their own services, there would not any thing be *be* left to pay any part of the said claims, but on the contrary, the said estate would be *e*ndebted to them in a considerable amount more than it would be able to discharge. And these respondents deny all manner of fraud and combination, with which they stand charged, for purpose of defeating said claims, or any of them; wherefore, having fully and sufficiently answered, without this, that there is any other matter or thing in the said bill not sufficiently answered, traversed, avoided, admitted, or denied, that is true, they pray to be hence dismissed, with their reasonable costs in this behalf expended, &c.

JNO. ERWIN,
Sct. for respondents.

THE STATE OF ALABAMA, *Greene county:*

Personally appeared before Robert B. Waller, a justice of the peace for the county of Greene, John P. Lipscomb, and Absalom Hardin, who being first duly sworn, *maketh* oath and *saith*, that the foregoing answer as made by them is true, such facts and part thereof as of their own knowledge, absolutely so, and those not of their own knowledge, they believe to be so.

JOHN P. LIPSCOMB,
A. C. HARDIN.

Sworn to and subscribed before me, this 27th day of November, A. D. 1840. RO. B. WALLER, *J. P.*

Exhibit A.

DR. Estate of Whitsett & Gray, in account current with Jno. W. Henley. CR.

1835.		
Nov. 7	To counsel and legal advice - - - - -	$50 00
	To cash paid Thompson for repairs, &c. - - -	2 13
1836.		
Jan'y. 26	Postage four letters - - - - -	1 00
Feb'y. 11	Wm. C. Cobbs - - - - - -	41 63
15	Samuel Pickering - - - - -	6 00

EXHIBIT A—Continued.

1836.			
May	15	To cash paid Lee Lipscomb, act.	$15 00
	"	R. Russell, acct.	3 00
	30	Whitlow & Lucy, part	67 87
April	2	Mumford Lawson, acc't.	64 22
May	9	A. Foscue	37 81
	10	George Vidmer	1 50
	23	Smith McDowell, & Co.	50
	"	James M. Davenport	6 00
June	7	John M. Bullock	41 66
	20	Jno. Burwell N. P. deeds	1 50
	28	H. Gilder, wages and expences	19 00
Sept.	6	Samuel J. Williams, cotton	1205 34
	"	Pd. Jno. P. Lipscomb	500 00
	7	Whitlow & Lucy, on note	60 00
	8	Cash paid W. G. Bullock	80 00
	"	Emmanuel & Gaines, acct.	34 98
	16	R. Olmsead, half of your note	365 20
	"	Collins & Hammay, ½ of your note	120 06
	26	Whitsett & Norwood, acct. ½	112 49
	"	N. Norwood, acct. H. & L. admin'r	12 31
Oct	18	Dobson & Williams, on note to Baker, Johnson & Co. N. Y., ½	489 44
Nov.	4	Cash paid Samuel J. Williams, note credited on a note mistake	50 00
	18	Jaffary & Crane, F. S. Lyon, recd.	591 43
	"	Dobson & Williams, on note to Baker, Johnson & Co., N. York, ½ bal.	492 70
	14	Services in procuring order of sale of Whitsett's property	50 00
1837.			
Jan'y		Daniel F. Brown, printing	9 50
Feb'y	19	R. Olmstead, & Co.	160 80
			$4,693 57

Dr. Estate of Whitsett & Gray, in account current with Jno. W. Henley. Cr.

1837.			
Feb'y.	27	To amt. brot. up.	$4,693 57
	"	To cash paid J. & F. Chandron acct.	30 03
Ap'l.	14	Collins & Hammay, balance note	120 06
	"	R. Olmstead, & Co. balance on note, 228 37	228 37
	18	A. C. Hardin	600 00
	26	Jno. S. Jemison	500 00
May	8	W. G. Bullock acct. and to bal.	84 00
	"	Whitlow & Lucy acct. settled with a note	63 82
	28	Mumford Lawson	167 50
	30	Lively & Kelly acct. and note	37 25
June	9	Jno. W. Henley for B. & Sanders	749 41
July	14	Mauldin & Lane acct.	13 25
	"	Tate & Stendwick	110 88
Sept	2	James Hildreth acct.	19 62
1838.			
April	28	Jno. P. Lipscomb	656 28
		5 per cent. commission on $8,452 18	422 64
			$8,496 64
		To balance in favor of J. W. H.	$43 46

All this acct. is for money rec'd for goods sold, &c., of W. & Gray; money rec'd by Henley before partnership with Lomax.

Dr.	Estate of Whitsett & Gray, in account current with Jno. W. Henley.	Cr.
1835.		
Nov. 9	By cash received from George Grower	$13 00
Dec. 19	Mrs. Grimes	73 44
"	G. N. Hatch	3 44
23	Jas. M. Rushing	9 50
26	Jno. W. Smith	8 13
"	J. J. Bradley	2 50
28	Lavender Simmons	6 00
1836.		
Jan'y. 1	James Brainbridge	18 00
2	Jno. H. Anderson	8 63
7	P. B. May	12 50
8	Philip May, (ch'd to P. B. M.)	93
9	M. Johnson	88
16	R. Russell (W. & L.)	27 55
18	Allen Bradley	1 25
19	P. Brarnes	3 76
20	James Rushing	2 00
"	N. B. Lawe	2 38
23	M. B. Mathews,	266 67
26	Wm. A. Manley	5 32
27	T. & W. Long	85 30
28	Lewis Hildreth	1 50
29	Wm. McAllister	1 31
"	L. B. McCarty	10 49
30	Wallace Robinson	27 75
31	James M. Bondurant	50 31
Feb'y 4	Jas. Whitsett	5 00
"	Jas. Bainbridge	5 47
"	Robert Pickens	23 27
6	Jas. Turner	2 00
9	Jas. Thomas	6 79
"	E. H. Jones	31 55
"	Harwood Goodwyn	1 38
"	Sarah Wesbrook	39 43
"	Elisha Nelson	10 94
"	Two judgments vs. Jno. Whitehead	249 75
12	E. H. Jones	65 81
17	Wm. Prowell	7 00
		$1,089 33

Dr.	Estate of Whitsett & Gray, in account current with Jno. W. Henley.	Cr
1836.	By amt. brot. over	$1,089 33
Feb'y 15	By cash received from E. Walker	63 46
"	Samuel Pickering	35 40
18	A. J. Crawford	34 82
"	Thos. G. Allen	10 12
20	Mary F. Drummond	21 98
"	Thos. Witherspoon	3 50
22	B. W. Glover	11 62
22	D. Blackshire	1 87

EXHIBIT A—Continued.

1836.		
Febr'y 27	By cash received from J. W. Cherry, (J. P. D.)	$49 04
29	R. S. Jones	355 64
"	Samuel Nelson	7 37
"	Elijah Willis	100 00
"	John Sample	7 00
March 3	Alisha Nelson	56 81
5	Elijah Willis	13 69
8	Wm. H. Booth	19 41
12	Lewis Henderson	1 25
15	Lee Lipscomb	58 32
"	Wm. W. Manning	96 60
"	R. Russell	8 62
16	J. Glover	60 37
28	James Hildreth	5 00
29	James Allen	2 19
30	Whitlow & Lucy	67 87
April 2	Mumford Lawson	64 22
5	Amasa Nelson	9 94
"	Nathan Smith	23 43
May 9	E. W. Norwood	6 60
"	C. Young	110 65
"	A. Foscen	37 81
10	George Vidmer	14 81
"	Jas. B. Tutt	3 50
12	C. McRae	2 50
14	H. B. Manly	5 63
18	J. W. Cherry	38 87
23	E. Prince	342 70
		$2,834 14

Dr. Estate of Whitsett & Gray, in account current with Jno. W. Henley. Cr.

1836.		
	Amt. brot. up	$2,834 14
May 23	By cash rec'd from Jno. Barwell	2 75
"	A. Curtis, sen'r	14 18
"	E. D. Steptoe	82 43
"	A. Fournier	69
"	Jas. M. Davenport	4 00
"	Smith McDowell & Co.	1 60
"	Geo. W. Bullock	12 84
26	M. Martin	2 50
27	E. Curtis, pt. disputed	2 87
30	Dennis Payne, J. P.	8 60
"	Wm. Payne	93
"	Jacob Mitchell	38
"	Jacob Burtting, J. P.	1 25
31	James Manning, J. P. (187)	31 90
June 2	H. B. Mitchell	4 45
3	Wm. Waleton, J. P., No. 163	34 35
"	Jno. Whitfield, J. P. (173)	12 56
4	A. Thredgill	9 12
"	Wilson Hildreth	37
7	Elias Gable, J. P., No. 167	2 50
"	Thos. Simpson ac. Bullock	41 66
8	Estate C. C. Stone acct.	40 42
13	Hudson Westbrook	44 37

EXHIBIT A—Continued.

1836.			
June 15	By cash rec'd from Isaac Hudson	- - - -	$8 50
21	Lewis Brock, jr. acct.	- - -	36 26
"	Dugald McAlpin	- - - -	18 72
24	Thos. McGee	- - - -	28 71
28	Thos. A. Sharpe	- - - -	4 00
"	B. Komegay	- - - -	1 00
"	F. G. Fleming	- - - -	1 75
Ju'y 12	A. R. Manning	- - - -	2 00
Aug. 13	Jas. J. Thornton acct.	- - -	13 87
Sept. 6	Sam'l J. Williams on settlement	- -	1,211 38
"	John Butcher, 1835	- - -	37
19	judgt. cirt. court, Wm. Robinson	- -	62 40
			$4,582 92

Dr. Estate of Whitsett & Gray, in account current with Jno. W. Henley. **Cr.**

1836.	By amt. brot. up	- - - - -	$4,582 92
Sept. 19	By cash rec'd from B. Whitehead, cir. co.	- - -	91 24
26	A. K. Ramsey	- - - -	124 80
28	J. T. Lomax, on J. Smith's note	- -	59 56
Oct. 12	L. B. McCarty, on judgt	- -	125 85
"	J. B. Walker, acct. 1834	- - -	31 00
Nov. 18	F. L. Lyon, acct. 1835	- - -	282 42
"	F. S. Lyon, collected from H. Bates	-	73 39
Dec'r 3	Saml. K. Jennings, acct. 1834	- -	18 51
5	Lyon & Griffin and G. G. Griffin	- -	35 09
1837.			
Feb'y 9	Herndon & Co. on acct.	- - -	5 09
22	Maulden & Lane, rent pd. $157 50 to W. and G.	- - - -	115 75
27	J. & F. Chandron, note	- - -	34 25
Mar. 11	Jno. L. Shackelford, J. P., No. 154	-	10 47
"	C. Fulford, do. 168	-	2 31
"	Burditte Eskridge, do. 169	-	10 31
"	Wm. Hall, do. 171	-	4 00
"	John Whitfield, 173	-	12 56
"	C. Butcher, 174	-	1 37
"	Jno. Boyd, 175	-	29 75
"	J. Dansley, 177	-	1 06
"	M. P. Clary, 180	-	5 20
"	Ed. Jones, 182	-	2 11
"	Wm. H. Jaman, 188	-	9 37
"	Ed. Johnson, 190	-	1 04
"	F. Hay, 191	-	2 44
"	Robt. Brown, 352	-	87
"	John Butcher, 354	-	23 85
"	Jas. M. Glenn, 362	-	14 37
27	John Shrim, cir. co.	- - -	425 52
"	John Shrim, " "	- - -	254 56
"	J. Cocke, " "	- - -	117 33
"	Bryan Komegag " "	- - -	372 12
Apl. 14	Jos. White, cir. co. s. c.	- -	120 97
"	Jas. N. Bates, N.	- - -	20 55
May 8	B. S. Bullock, accts. 34 and 35	- -	13 03
"	W. G. Bullock, acct.	- - -	10 99
			$7,046 12

EXHIBIT A—Continued.

DR. Estate of Whitsett & Gray in account current with Jno. W. Henley. DR.

1837.	By amt. brot. up		$7,046 12
May 8	By cash rec'd from Whitlow and Lucy acct.		23 88
"	B. P. Whitlow		20 56
13	J. McDowell, acct. 35		23 25
24	E. P. Gaines " "		2 50
June 6	Jas. R. Brown		29 59
"	John Butcher, J. P. No. 68		27 55
"	J. H. Croom, " 89		15 91
"	A. Duff, " 181		32 89
"	Jno. S. Thompson, 364		1 88
"	W. Hubbard		12 20
"	H. Fort		17 37
"	Jacob Smith et al.		12 50
"	J. H. Stephens, J. P. D. 390		7 50
"	George Vidimer et al. 391		27 83
"	R. McMurray et al. 393		37 50
"	John Bolton et al. 394		29 85
"	J. C. Fulford et al. 395		7 48
"	R. Grayson et al. 396		15 85
"	Wm. Hall et al. 397		25 12
"	R. S. Jones 398		28 18
"	W. C. Spencer et al. 399		21 25
"	W. W. Griffin, J. P. D. 425		32 34
"	T. W. Grayson, " 533		1 56
"	L. Lipscomb, Sec. J. P. D. 535		1 65
14	Lee Lipscomb, pt. his note		75 00
Aug. 12	Jesse Coleman, J. P. D. 70		20 65
Sept. 29	R. Gale, judgt. cir. co.		117 26
1838.			
Mar. 15	Robert Weir, in *old* judgt. cir. co. in pt.		146 70
27	Samuel Pickering and Prowell, " judgt.		158 92
1837.			
Feb'y 10	Isabella Cocke, " "		142 34
"	Wiley Hubbard		12 20
"	Henry Fort		17 37
25	Isaac Smith and W. & L.		12 50
1838.			
Mar. 8	Casper Albert et al., judgt. cir. co. pt.		135 00
Sept. 19	Casper Albert, do. bal.		44 88
Nov. 10	Jno. P. Lipscomb, over paid		18 77
			$8,403 90

DR. Estate of Whitsett & Gray in account current with Jno. W. Henley. DR.

1839.	By amt. brot. up	$8,403 90
May 28	By bal. on judgt. on R. Weir, at Sept. term, 1836, cir. co.	48 28
	passed to debit	43 46
		$8,496 64

"*Exhibit C.*"

DR. Hardin and Lipscomb, adm'rs of Wm. H. Whitsett, in act. current with Henley and Lomax. CR.

1837.			
May	28	To writing bond to judge of co. co.	$5 00
June	24	cash paid Jno. W. Henley, (in J. M. H's per acct.)	75 00
Nov.	6	postage on drafts to Mobile	94
	"	on notes of protest	2 63
Dec'r	26	cash paid Whittow and Lucy for protests	22 00
	"	comms. on $230 33	11 50
	"	defence of suit of Jos. W. Moore vs. you cir. co. of Greene	10 00
	"	defence of suit of Barnes and Sanders vs. you on note, Greene	10 00
	"	app. and plea, Field and Williams vs. you in Greene	10 00
	"	app. and plea of same vs. you	10 00
	"	app. and plea Barnes and Sanders vs. you on an ac.	10 00
	"	W. J. Larapost vs. you	10 00
May	25	Comms. on acct. rec'd of L. W. Young at 5 per ct. $194 84	9 70
Sept.	5	comms. 5 pr. ct.	6 35
	10	John W. Henley	18 77
	"	amt. of comms. not charged above	73 70
	"	cash paid Jno. P. Lipscomb	1,270 00
	20	Murphy and Jones for Jamison, per instruction	393 96
	"	in part of costs vs. same suit	6 04
Nov'r	12	arguing motion in co. co. McDowell	25 00
1839.			
Mar.	29	5 per cent. on $642 03	32 10
May	28	5 per ct. $70 74 of J. W. L.	3 53
June	5	5 per ct. $816 71	40 18
	"	" $66 12	3 30
	"	" $196 94	9 84
	"	" $185 11	9 25
	"	" $298 48	14 92
	"	" $86 21	4 31
			$2,098 02

DR. Hardin and Lipscomb, adm'rs of Wm. H. Whitsett, surviving partner of Whitsett and Gray, in acct. current with Henley and Lomax.

1839.			
June	5	To amt. brot. for'd	$2,098 02
	"	5 pr. ct. on $117 23	5 86
	"	" 92 83	4 54
	"	our fee in three cases of yours vs. T. B. Lucy, all of which have been returned no prop. found	60 00
	"	our fee you vs. Jas. Martin, ret'd no prop. found	5 00
Aug.	15	cash paid L. W. Young on Ervin's and Watson's order, and our receipt transferred of amt. collected in suit vs. Lee and N. Lipscomb	776 53
Sept.	17	cash paid sheriff on judgt. and ex. vs. T. B. Lucy, ret'd *no P. F.*, sued in name of Lomax	9 75
	29	cash paid Ben. Talliaferro, in part of judgt. in his favor in Greene	150 00

EXHIBIT C—Continued.

1839.		
Sept. 24	To 5 per ct. $75 70 - - - - - - -	$3 75
Nov'r 5	cash paid B. Taliaferro, bal. on judgt. in his favor vs. you in Greene cir. ct. - - - - - -	274 50
14	bill of cost "vs." Lomax and Burwell on exc. vs. Lucy, ret'd no P. F. co. ct. - - - - -	12 18
1840.		
Jan'y 7	cash paid Jno. P. Lipscomb - - - -	1,600 00
June 18	5 per ct. $335 03 - - - - - -	16 75
"	cash paid Jno. T. Lomax, his part of comms. allowed by orphans' court from sale of property of Wm. H. Whitsett - - - - - - - -	129 43
	To bal. - - - - - -	162 26
		$5,308 57

Exhibit B.

Hardin and Lipscomb in account with Jno. W. Henley.

1837.			
May 8	To cash paid Whitlow and Lucy - - -	$62 82	
"	5 protests in Mobile - - -	10 00	
July 14	Mailding and Lane - - -	14 00	
1838.			
Apl. 28	Jno. P. Lipscomb - - -	593 72	
	5 per cent. comns. on $791 26 - - -	39 56	
	bal. - - - - - -	71 16	
			$791 26
1837.	Cr.		
May 8	By cash from B. P. Whitlow, lot - - -	48 96	
June 6	C. Albert - - -	15 25	
"	S. J. Williams - - -	17 21	
"	W. C. Spencer - - -	15 54	
"	J. W. Henley et al., lot - -	116 66	
July 14	Mauldin and Lane - - -	127 25	
Aug. 1	do. do. bal. - -	79 41	
Nov'r 15	J. W. Henley et al. - -	116 66	
1838.			
Mar. 27	C. Butcher - - - -	71 40	
"	W. D. Jones - - -	66 36	
"	J. W. Henley et al. - -	116 66	
			$791 26
	The above rec'ts were all for lots sold that belonged to Whitsett alone, or for rents rec'd from those that were improved.		

Dr. Hardin and Lipscomb, adm's of Wm. H. Whitsett, in account current with Henley and Lomax. Cr.

1837.		
Ap'l 18	By cash from Lee Lipscomb - - - - -	$75 00
Dec'r 26	R. Gale et al. - - - - -	155 33

EXHIBIT B—Continued.

1838.			
May 25	By cash from	L. W. Young on 1st draft	$143 75
"		L. W. Young on "	50 59
Sept. 5		amt. execution, J. Kenighten	127 19
"		H. K. Carron et al. cir. ct	442 53
"		J. C. Lucy et al. "	482 42
"		F. Gaither " "	548 90
Oct. 14		A. W. Thompson and B. Taliaferro, note	72 28
1839.			
Jan'y 4		amt. of L. W. Young, in judgt. at March term of cir. co.	101 71
"		L. W. Young, amt. due on judgt. at Sept. term of cir. court	300 34
Mar. 20		R. Gale and L. Maulden, cir. co.	191 72
"		C. E. Parish et al. (H. K. Carron)	450 31
May 28		J. C. Lucy on his draft in part	70 74
June 5		on judgt. vs. Lee and N. Lipscomb	816 71
"		J. C. Lucy in part of his draft	66 12
"		Lomax and Burwell vs. Gale et al.	196 94
"		J. C. Lucy in part of his draft	185 11
"		L. W. Young et al. co. ct.	298 48
"		J. C. Lucy	86 21
"		passed from acct. of J. C. Lucy	118 23
"		from act. of J. C. Lucy	92 93
18		cash of J. C. Lucy, bal. in part of his bill	139 97
"		cash of J. C. Lucy, in full of his bill	195 06
			$5,308 57
		"By amt. brot. for'd"	$5,308 57

Exhibit D.

"A list of unsettled debts, belonging to the estate of W. & G.".

Jas. H. Adams,	account,	1834	$12 00
Joel H. Abbott,	"	1836	3 64
Thomas G. Allen,	"	1834	9 32
Jno'a. H. Anderson,	"	1834	8 00
Benbon Anderson,	"	1834	8 43
B. F. Bullack,	"	1834	135 62
James Bryan,	"	1834	75
Z. W. Baker,	"	1834	3 50
Mrs. R. Brasher's,	"	1834	3 25
Alex'r Brasher,	"	1835	7 45
B. F. Bullock,	"	1833	73 15
Rob't Brown,	"	1834	39 10
Lewis Brock, jr.,	"	1834	32 38
James Brame,	"	1832	75
John Butcher,	"	1834	20 76
Drury Cross,	"	1832	9 50
Wm. Cade, jr.,	"	1834	13 56
Wm. Cooper,	"	1834	86 56
Wm. H. Cannon,	"	1834	222 88
Jas. Catron,	"	1832	1 25
D. G. Campbell,	"	1835	4 73
Nancy Clanton,	"	1835	6 31
Wm. Clark,	"	1835	5 82
C. L. Conner,	"	1835	75
R. Clarke,	"	1833	1 37
M. P. Clary,	"	1832	1 25

EXHIBIT D—Continued.

D. Curry,	account,	1834	$7 50
Jacob Dansby,	"	1834	56 59
O. Duff,	"	1833	14 06
A. Duff,	"	1832	5 62
C. H. Drummond,	account,	1832	26 22
P. DeLanney,	"	1835	72 01
C. F. Davenport,	"	1834	5 00
C. E. Davenport,	"	1834	15 63
Wm. B. Duval,	"	1834	43 50
Wm. T. Danghdrill,	"	1834	1 13
A. L. Davis,	"	1834	62
Wm. Ewing,	"	1833	102 66
Samuel Enre,	"	1834	8 62
Wm. Ewing,	account,	1834	50
Thos. Ferguson,	"	1835	51 92
John Foy,	"	1834	6 38
Amos Fisher,	"	1834	42 50
Ben. Gary,	"	1833	7 00
Cooper & Gabel,	"	1833	40 00
E. S. Goodram,	"	1834	3 00
Geo. S. Gaines,	"	1834	33 75
Thos. Gray,	"	1835	189 93
F. Gaither,	"	1835	67 72
Jas. M. Glenn,	"	1834	12 63
H. Gildher,	"	1835	25
W'mson A. Glover,	"	1833 and 1834	101 23
Jas. Gilleispie,	"	1835	1 00
J. C. Gilbert,	"	1834	4 00
C. C. P. Gaither,	"	1834	38 63
Jas. Gilder,	"	1834	4 81
J. Gable,	"	1833	17 43
N. &. G. Hill,	order,		24 81
Danl. Hays,	account,	1836	7 33
J. A. Hodges,	"	1834	15 00
Jno. W. Henley,	"	1835	5 33
Jas. Henley,	"	1833	4 12
Jno. Hodges,	"	1834	3 75
Thos. A. Holland,	"	1835	7 00
Thos. A. Holland,	"	1833	1 88
James Henry,	"	1834	15 13
Wm. Henry,	"	1834	9 74
Wilson Hildreth,	"	1834	37
Mrs. Mary Hill,	"	1834	71 85
R. Hildreth, jr.,	"	1833	44
Jno. Jordan,	"	1834	4 83
J. C. Jordan,	"	1833	19 03
Jordan & Davenport,	"	1834	1 69
E. H. Jones,	account,	1834	58 83
B. W. Johnson,	"	1834	75
John Jones,	"	1832	75
C. Johnson,	account,	1833	5 31
Wm. Jones, jr.,	"	1833	52 00
R. C. Jones,	"	1834	24 63
Greene James,	"	1832 and 1833	63 87
J. M. C. Kirksey,	"	1834	6 88
R. Kidd,	"	1835	3 88
Jesse Knighten,	"	1835	2 12
John Keahn,	"	1834	1 00
H. Kinney,	"	1834	5 54
N. Keating,	"	1834	82
Thomas B. Lucy,	"	1834	4 00

EXHIBIT D—Continued.

D. L. Lacy,	account,	1834	$6 95
Wm. C. Lipscomb,	"	1835	2 00
M. Leitchfield,	"	1835	8 42
O. D. Lucy,	"	1834	25
A. Lott,	"	1834	1 69
Jos. Lanamen,	"	1833	7 25
Elihu Lipscomb,	"	1832	50 81
C. Lawson,	"	1833	15 22
D. L. Lacy,	"	1832	18 75
J. C. Lacy,	"	1834	10 28
C. Lawson,	"	1832	41 63
Geo. M. Myers,	"	1835	37
Jno. C. McGrew,	"	1834	1 25
Wm. S. Mott,	"	1835	50
A. H. McRee,	"	1834	49 21
Henry McCullum,	"	1834	17 31
J. Middlebrooks,	"	1834	2 00
J. Middlebrooks,	"	1834	33 49
R. V. Montague,	"	1833	1 25
Peter Martin,	"	1834	152 30
Jos. W. Moore,	"	1834	69 37
Jos. Nelson,	"	1832	1 75
Jos. Nelson,	"	1834	9 00
Thos. Nelson,	"	1834	74 91
Nat. Norwood,	"	1835	6 01
Wm. Prowell,	"	1834	3 50
John Pugh and J. M. Glenn,	"	1834	22 93
Z. Phillips,	account,	1834	9 75
Mrs. Phillips	"	1834	50 13
W. Powell & J. Coleman,	account,	1833	18 00
W. J. Roane,	"	1834	16 00
Estate of S. S. Prince,	"	1833	10 02
Estate of S. S. Prince,	"	1834	20 57
Jno. Pickens,	"	1833	2 75
E. Price,	"	1834	102 63
James Parker,	"	1834 and 1835	1,105 01
Daniel Payne,	"	1835	8 00
Wm. Pruett,	"	1835	4 41
Saml. Sturdwick,	"	1834	15 50
E. Sturdwick,	"	1834	3 69
Estate C. C. Stone,	"	1832, 1833, 1834, and 1835	36 19
Simeon Sims,	"	1833	63 97
Wm. Sloan,	"	1833, 1834, and 1835	113 38
Lem. Simmons,	"	1835	75
John Schim,	"	1835	43 08
John Sloan,	"	1833	11 10
S. G. Stone,	"	1834	1 00
C. B. Schoch,	"	1835	1 50
N. W. Thompson,	"	1834	2 24
N. Tisdate,	"	1832 and 1833	3 56
James A. Torbert,	"	1832	3 63
H. Tindell,	"	1832	2 00
Jas. J. Thornton,	"	1834	13 25
Jas. B. Taitt,	"	1834	3 13
James A. Torbb,	"	1833	26 60
Mrs. J. Thompson,	"	1832	1 25
C. W. Taylor,	"	1832	5 18
Jno. S. Thompson,	"	1834	1 88
James Thomas,	"	1834	6 25
Jam. Lom,	"	1835	5 75
C. W. Taylor,	"	1834	12 62

EXHIBIT D—Continued.

E. Uzzele,	account	1835		$0 50
J. C. Van Dyke,	"	1832		1 63
S. J. Williams,	"	1833, 1834, and 1835		641 64
James Walker,	"	1832		5 81
Wm. Walton,	"	1833		15 68
Wm. Weems,	"	1832		13 09
James Whitsett, esq'r,	"	1832		34 75
B. P. Whitlow,	"	1833		17 23
Moses Warren,	"	1834		8 75
Asa Whitlock,	"	1832 and 1833		3 69
David Warner,	"	1834		8 34
Wm. Wilkerson,	"	1834		41 40
R. Wilbourne,	"	1833		5 00
Wm. Weems,	"	1834		5 14
R. Weir,	"	1835		2 00
Whitsett & Norwood,	"	1835		7 57
Wm. H. Warren,	"	1833		149 07
Nathan Yarbrough,	"	1833		4 81
	Notes.			
Jas. H. Adams				28 92
Jno. Boyd				500 00
B. Carpenter				20 42
Jesse Clary				6 00
D. Collins				35 75
Samuel Dale				28 66
Washam Easley				25 75
Jno. Fitts				4 07
Fred. Hays				15 41
Fred. Hays				42 07
" Rec'd 19th Nov., 1834			$14 06	
" Rec'd 12th Sept., 1835			9 00	
D. C. Hays				61 13
" Rec'd 4th April, 1835			$10 00	
" G. Brertling, 21st April, 1835			10 00	
" R. Russell, 28th February, 1834			12 00	
Jno. J. Hill				71 50
Jno. J. Hill				71 50
Jno. J. Hill				22 62
James Goodwyn				24 76
Robt. Greer, order				10 75
Jam. M. Glenn				11 37
John Grower				29 15
Jeremiah Knighton				10 00
" Jesse Knighten, Rec'd 14th February, 1835			$20 00	
R. Kidd				31 86
B. W. Johnson				79 87
Joel Jones				22 17
Jas. McGee, receipt for note				23 51
Dan'l McMillan				150 00
Obedia Nelson				67 35
Jas. B. May				8 00
Willis Pope				88 97
" A. R. Ramsey				39 69
Rec'd, Sept. 26th, 1836, $2 56 from N. Norwood.				
Jno. Schmn, receipt for collection, note				23 43
S. G. Stone				187 94
Jno. Schmn				146 37
" Rec'd 8th March, 1834			$25 00	
" Rec'd 8th March, 1834			75 00	
" Rec'd 30th March, 1835			35 00	

EXHIBIT D—Continued.

Wm. H. Whitsett & Co.		$63 00
Wm. H. Whitsett & Co.		60 44
Wm. H. Whitsett & Co.		15 00
Wm. H. Whitsett & Co.		56 95
Wm. H. Whitsett & Co.		86 74
Wm. H. Whitsett		7 00
Wm. H. Whitsett		19 00
Joel C. Whitsett		76 44
Rec'd, 25th Sept., 1835	$30 00	
Joel C. Whitsett		143 50
Rec'd 16th April, 1835	$87 00	
Joel C. Whitsett		35 12
J. C. Van Dyke		13 00
W. Wilkerson		41 40
James Wells		36 37
David H. Wallace		18 00
Moses Warren		10 75
Richard Wilborne		400 00

(Exhibit E.)

A. C. Hardin and John P. Lipscomb in account current with the estate of Wm. H. Whitsett, personally. CR.

1836.				
11th Aug.	Received from Cobb, adm'r on note	$286 20	"DR."	
1837.				
8th Feb.	Do do do	701 34		
28th	Do do do	526 83		
28th Mar.	Do do do	300 00		
30th May	Parishe's note	50 00		
	John Perry, note	20 00		
			$1,884 37	
10th Aug.	Received from Cobb, adm'r	300 00		
1838.				
5th April	John Perry's note	5 81¼		
28th April	Cash received Henley	593 70		
6th Oct'r	John Perry's note	139 85		
10th Sept.	Received from Henley & Lomax	1,270 00		
1840.				
7th July	Do do do	1,600 00		
			3,909 36¼	
18th June	To account raised vs. estate of Cobb	188 41		
	Balance from Cobb, adm'r	87 82		
	William Cochran, note	5 00		
28th June	James Whitsetts	47 00		
			328 23	
	Carried down	–	6,121 96¼	
1836.				
11th Aug.	Paid Cobb, adm'r	286 20	CR.	
1837.				
8th Feb.	J. & F. Chandron	7 02		
	A. Teomer	23 22		
	Herndon & Coon	5 93¾		
	Tavern bill	5 25		
	J. M. Bullock	99 15		
	J. Shirin	296 37½		
	Jennings & Jones	2 14		
			725 34¼	

EXHIBIT E—Continued.

	Thos. Burford	$71 06¼		
	Jacob Smith	10 00		
	Robert McMurry	10 81¼		
	J. M. Bullock	526 83		
8th Mar.	Expense at Erie	5 75		
	D. F. Brown, printer	12 75		
28th	B. Taliaferro	300 00		
			$940 20½	
	To John P. Lipscomb, for expenses	25 50		
	Expense collecting	5 62½		
9th Aug.	N. Norwood	42 64		
	Expense at Demopolis	4 62½		
6th Sept.	at Erie	2 25		
1st Nov.	to Jones' bluff	1 50		
1838.				
28th April	to Demopolis	3 25		
	J. Martineer	3 09		
			87 48	
10th Nov.	Tavern bill	2 50		
7th Jan.	A. C. Hardin's expenses	13 00		
1840.				
1st Jan'y	Sheriff G. C'ty	8 56¼		
28th June	B. Glover, Judg't	157 19		
	Do do	663 81		
1836.			835 06¼	
8th Oct'r	Watson & Erwin	2,076 66		
	5 per cent. commissions	306 09		
			2,382 75	
	Carried down	–		$4,970 84

A. C. Hardin and John P. Lipscomb, in account current with the estate of Wm. H. Whitsett, as survivor of Whitsett & Gray. Dr.

1836.				
6th Sept.	Received John W. Henley's receipt	$500 00		
1837.				
8th Feb.	C. C. Parish, note	6 68¾		
	Robert Weir, note	9 18¾		
	A. Glover, note	149 31¼		
	Herndon & Coon, note	17 06¼		
	G. G. Griffin, note	40 00		
	A. Fonier, note	30 37½		
	John Shinn, receipt, J. P.	173 31¼		
	Lee Lipscomb's note	100 00		
	J. M. Moore's account	47 50		
	John C. Lipscomb's account	92 06¼		
	A. C. Hardin's account	20 43¾		
			$1,185 93¾	
28th Mar.	John W. Henley's note	9 75		
	Maulden & Lane "	37 31¼		
	J. W. Henley's receipt	600 00		
30th May	J. Martinier's note	75 00		
	Wm. Murphy's receipt	165 75		
1838.				
5th April	Wm. Myatt's note	38 12½		
28th	J. Martinier	40 50		
	from Henley	656 38		
			1,622 71¾	

EXHIBIT E—Continued.

10th Nov.	Whitlow & Lucy's note	- -	$110 50	
	J. Martinier "	- -	45 62½	
1840.				
18th June	J. M. Bullock "	- -	25 21	
	D. Paine's "	- -	28 73	
	D. Paine's "	- -	31 11	
	N. Norwood's "	- -	40 23	
	James S. Whitsett	- - -	54 62½	
1836.				
2d Feb'y	Cash received at vendue -	- - -	118 18¾	
				$464 21¼
				3,272 87½
	Brought down -	- - - -	-	6,121 96¼
				9,394 83¼
	Deduct credits	- - -	-	9,310 52
		Balance -	-	$84 31¼
1836.				Cr.
9th Sept.	Paid R. B. Waller, for Treadwell, K. & Co.	-	500 00	
1837.				
8th Feb.	Herndon & Coon -	- - -	19 70	
13th	R. B. Waller, for Treadwell, K. & Co.	-	500 00	
1836.				
2d Feb'y	J. W. Moore -	- - -	57 24	
1837.				
28th Feb.	J. P. Lipscomb's expenses	- -	21 62½	
6th May	To sheriff of Green county	- -	152 59	
29th	Balance R. B. Waller, for Treadwell, K. & Co. -	- - -	207 30	
23d	Clerk, for Butler & Harris	- -	319 16½	
1838.				
2d June	Mitchell & Jemison -	- -	150 00	
				1,927 62
5th April	Expense -	- - - -	2 50	
15th Nov.	Watson & Erwin, for Barnes & Sanders	-	672 23	
1839.				
7th Jan'y	A. C. Hardin's expense -	- -	14 25	
March	Expense to Erie -	- - -	3 50	
1840.				
3d June	Mr. Gooch -	- - -	5 00	
	Expense to Tuscaloosa	- -	2 00	
1836.				
2d Feb'y	out at auction -	- - -	118 18¾	
	C. F. Davenport -	- - -	10 00	
	J. Martinier -	- - -	10 00	
1840.				837 66¾
18th June	Wm. E. Cobb, adm'r -	- -	752 06	
	B. Glover, for Jones & Griffin	- -	658 69¼	
	5 per cent. commissions -	- -	163 64	
				1,574 39¼
				4,339 68
	Brought down -	- - -	-	4,970 84
				$9,310 52

(Exhibit F.)

"A list of insolvent and unsettled notes and accounts belonging [to] Wm. H. Whitsett's estate, personally."

		"Dr."	"Cr."
A. D. Burnett's note - - - -	$30 40	Insolvent.	
Geo. Washington, 2 notes, one $3 12½ and $3 75	6 87½	"	
John S. Howkins, note - - - -	6 72	"	$500.
John S. Howkins, account - - -	7 62½	"	
A. D. Loftin, account - - - -	3 25	Can't be found.	
Geo. Washington, order to Samuel Corham -	2 50	Says no funds.	
E. C. Fieeld's note - - - -	26 00	He has offset $100.	
Lee Lipscomb's note, in J. M. Bullock's hand -	20 00	Insolvent.	
James Mansker's note - - - -	40 94	"	$11 87½.
John S. Hawkins' note - - - -	6 89	"	
Mrs. Ann Perry's account - - -	6 81	She says she has paid.	
"Whitsett & Gray."			
A list of unsettled notes and accounts in my hands.			
John J. Hill, note - - - - -	34 78		
B. Taliaferro - - - - - -	64 88	Offsets and over.	
J. Middlebrook, account - - - -	38 16¼	Can't be found.	
John C. Pickens - - - - -	19 05	Paid Wm. H. W. Clerk.	
James Gray, note - - - - -	202 40¾	"Watson & Erwin received, in part pay of judg't, Smith, Wright & Co. vs. Whitsett & Gray.	
" Capt. James Parker, account - - -	1,105 01	Overbalanced by offset note.	
This account was taken out of Henley's hands by myself, to settle with Capt. Parker, and he has a note on Whitsett & Gray, for more than that account.			
Field note - - - $26			
Credit - - - 10			
	16 00	Field has offset.	

And afterwards, to wit, on the 4th day of December, A. D. 1840, the answer of Joseph Hill and Lorenzo L. Sexton and Ann R. Sexton his wife, defendants to said complainant's bill, were filed *on* said clerk's office as follows, to wit:

"United States of America, district court of the United [States,] for the southern district of Alabama, to the Hon. William Crawford, judge of the district court of the United [States,] for the middle district of Alabama, exercising chancery jurisdiction in the said district. The answer of Joseph Hill, of Greene county, in Alabama, to a certain bill in chancery filed against him, John P. Lipscomb and Absalom Hardin, administrators of William H. Whitsett, dec'd, and Anne R. Gray, administratrix of the estate of Thomas Gray, dec'd, by John G. Nelson, Charles G. Carleton and William H. Stewart, partners by the name of Nelson, Carleton & Co., and by Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman and Leroy M. Wiley, partners, by the name of Parish, Marshall & Co., who are complainants in said court.

This respondent reserving to himself, now and at all times hereafter, [all] manner of benefit to the many imperfections, uncertainties, and un-

truths in the said bill of the complainants contained, makes his answer thereto to such as he is advised and beleives to be meterial and proper. This deponent states that, about the month of January, 1834, while this deponent was under the age of twenty-one years, he became a partner with Thomas Gray and William H. Whitsett, in the town of Demopolis, in Marengo county, in Alabama; that he remained a partner with them under the name and style of Whitsett, Gray & Co., until the month of August, 1834, when he, this deponent, at the request and consent of the said William H. Whitsett and Thomas Gray, withdrew from the said firm, and ceased to have any interest, management, or control over the same, or to be liable for the debts of the said firm, leaving the said Thomas Gray and the said William H. Whitsett, doing business together as merchant partners. This respondent states that he, this respondent, never did sign the name of the firm of William H. Whitsett to any note or notes whatever, either to the said complainants, or to any other person or persons; that this respondent never was in the city of New York, and never purchased any goods from the said complainants, or gave them any note or notes, bill or bills of exchange; that, in the month of May, 1834, the said William H. Whitsett visited the city of New York, and purchased goods. This respondent does not admit the existence or execution of the said notes or bills mentioned in the bill of the complainants, or the said judgements, but requires the same to be properly proven, as he never saw the same. This deponent further states, that he, this deponent, left the said firm under the assurance and guaranty from the said William H. Whitsett and the said Thomas Gray, that he, this deponent, should not sustain any loss, or pay any of the debts of the said firm, as he had received no profits from the same.

This deponent admits that the said William H. Whitsett, and the said Thomas Gray, have both departed this life. The said Whitsett having died about the year 1836, the said Gray about the year 1835: it is also true that the estate of the said William H. Whitsett is represen*ta*ted by John P. Lipscomb and Absalom Hardin, administrators; and that the estate of the said Thomas Gray is represen*ta*ted by Anne R. Gray, now (Anne R. Sexton, wife of Lorenzo L. Sexton,) and James Gray, administratrix and administrator of the said decedent. This respondent d[e]nies that the estate of the said William H. Whitsett is insolvent; and avers that the said John P. Lipscomb and Absalom have not reported the same insolvent in Greene county, or elsewhere, as this deponent has carefully examined the records of the orphan's court of Greene and Marengo counties. This respondent states that letters of administration upon the estate of the said William H. Whitsett, dec'd, were granted by the judge of the orphans' court of Marengo county; and that the said administrators have made no report to the said court, or to any other court, in Greene or Marengo counties, of the value or condition of the said estate. This respondent, further answering, states, that the said complainants could have easily recovered the said debts in the said bill of complaint mentioned, of the estate of the said William H. Whitsett, dec'd, or of the estate of the said Thomas Gray, dec'd, both

being able to pay the said debt. This respondent, further answering, states, that he has no money or property subject to the said judgment or execution, or to pay the said notes or bills in the said bill of complaint mentioned; that this respondent is the heir of Greene Hill, dec'd, whose estate has not yet been distributed, but is now undivided, and liable to pay the debts of the said decedent, Greene Hill, which amounts to seven or eight thousand dollars, and all the property of said estate remaining in the hands of the administrator of the said estate.

This deponent denies that he has confederated or combined with any person or persons to defraud the said complainants, or has in any manner concealed or attempted to conceal any property or money from the payment of the said debts or judgements, or to delay or hinder in any manner the collection of the same by the said complainants. This respondent having now answered all the allegations and interrogatories in the bill of the said complainaints mentioned, which are meterial and proper for him to answer, begs to be discharged, with his reasonable cost, about this matter, so unjustly expended; and will ever pray, &c.

MURPHY & JONES,
Solc'rs for respondents.

THE STATE OF ALABAMA, *Tuscaloosa county:*

Personally appeared before me, A. G. Gooch, clerk of the district court of the United States for the middle district of Alabama, *Joseph* Hill, the respondent, in the foregoing answer, who, being by me first duly sworn, deposeth and saith, that the facts stated in the foregoing answer, as of his own knowledge he knows to be true, and those from the knowledge of others, he *believes* to be true.

JNO. J. HILL.

Sworn to and subscribed before me, this 28th day of November, 1840.
A. G. GOOCH, *Clerk.*

"The answer of Lorenzo L. Sexton, and Anne R. Sexton, his wife, (who was formerly Anne R. Gray,) to a bill of complaint exhibited against the respondent, Anne R., and others, in the district court of the United States for the middle district of Alabama, by John G. Carleton, Charles G. Carleton, and William H. Stewart, partners by the name of Nelson, Carleton & Co., and others. These respondents, saving and reserving to themselves all benefit of any exception which might at any time be taken to the many errors and insufficiencies of said bill, for answer thereto, or so much thereof as they are advised it is meterial for them to answer, answering, say: that they admit it is true that a partnership existed between William H. Whitsett, now deceased, Thomas Gray, now deceased, and John J. Hill, under the name and firm of Whitsett, Gray & Co., as stated in the complainant's bill; the said Thomas Gray died on or about the 24th day of February, A. D. 1835, and the said William H. Whitsett died about the day of A. D. 1836; these respondents know nothing, of their own knowledge, of the making of the several notes, or bills of exchange specified in the complainant's bill, or

of the judgments therein specified, and require that the same may be duly proved; these respondents *no* nothing of the presentment or protest of said bill, or the notice thereof, or the existence of said claims, or of the want of funds in the hands of the drawees to pay the same, or the direction to the drawees not to accept the same, mentioned in the said bill, and require that these allegations may be proved. These respondents admit that John P. Lipscomb and Absalom Harding are the administrators of the estate of the said William H. Whitsett, deceased, but do not admit that the said administrators have reported the said estate to be insolvent, on the contrary, these respondents are informed, and beleive, that no such report of the insolvency of said estate has been made, and that the said estate is, in fact, solvent. These respondents, further answering, say, that after the death of the said Thomas Gray, administration of the goods and chattels, rights and credits, which were of the said Thomas Gray in his lifetime, was granted to the respondent, Anne R., and one James Gray, jointly, by the orphans' court of Greene county; that the said James Gray has been and is the acting administrator as aforesaid, and that the perishable property belonging to the estate of the said Thomas Gray, dec'd, has all been sold, and the proceeds thereof received by the said James Gray, and the slaves formerly belonging to the estate of the said Thomas Gray, deceased, have been divided among the distributees of said estate, and a proper portion thereof allotted and assigned to your respondent, Anne R., who was the widow of said Thomas Gray, deceased, which slaves are now held by these respondents as their own property, by and under such allotment and assignment. Your respondents, further answering, say, that no dower has yet been allotted or assigned to your respondent, Anne R., out of the real estate of the said Thomas Gray, dec'd, and since the death of the said Thomas, she has been, and is now in the possession of the, and occupancy of the, mansion house in which the said Thomas resided in his lifetime, and the plantation thereto attached. These respondents have not, nor has either of them, as administrator or administratrix of the estate of the said Thomas Gray, dec'd, any portion of said estate in their possession, and they beleive that all of said estate (if any there be which is undivided) is in the possession of the said James Gray, as administrator as aforesaid. These respondents aver that the claims referred to in the complainants' bill, were not, nor was either of them, presented to your respondent, Anne R., within eighteen months after her qualification as administratrix of said estate as aforesaid. These respondents admit that the estate of the said Thomas Gray, before it was divided as aforesaid, was sufficient to pay the claims mentioned in the said bill of complaint, if they were just and proper claims against the said estate; and these respondents having fully answered, pray to [be] hence dismissed, with their reasonable costs, &c.

MURPHY & JONES,
Solicitors for respondents.

This day, personally and severally, [came] before me, Albert G. Gooch, clerk of the district court of the United States for the middle dis-

trict of Alabama, the aforesaid Lorenzo L. Sexton and Anne R. Sexton, who being, severally and respectively, duly sworn, say, on oath, that the foregoing answer is true, in substance and in fact.

LORENZO L. SEXTON,
ANNE R. SEXTON.

Sworn and subscribed before me, the 1st day of December, 1840.

A G. GOOCH, *Clerk.*

And afterwards, to wit, on the 7th day of December, A. D. 1840, being a day of the term of said court, begun and held for said district, on the first Monday after the fourth Monday of November, A. D. 1840. Present, the hon. William Crawford, judge of said court. The following order was made in this court, to wit:

NELSON, CARLETON & Co., and Parish, Marshall & Co.
vs.
JOSEPH J. HILL, et al.
} In Chancery.

"It is ordered by this court that this cause be continued. And afterwards, to wit, on the first Monday and fifth day of April, A. D. 1841, at rules, holden in the clerk's office of said court, the following proceedings were had in this case, to wit:

NELSON CARLETON & Co., and Parish, Marshall & Co. compl'ts,
vs.
JOSEPH J. HILL et al., defts.
} In chancery.

It appearing from the answer of Lorenzo Sexton and Ann R. Sexton, to the complainant's bill, that James Gray administered with Ann R. Gray, now Ann R. Sexton, on the estate of Thomas Gray, deceased, complainants, by Wallace and Porter, their solicitors, now move that the said James Gray be made a party defendant to this bill, and that a writ of subpœna issue, commanding the said James Gray to appear in this honorable court, answer the allegations in complainant's bill, and abide by the final decision of said court in this cause.

WALLACE & PORTER, *Solicitors.*"

Whereupon it is ordered, that said James Gray be made a party defendant to the bill of said complainants, and that a writ of subpœna issue to the said James Gray, returnable at rules, on the first Monday of May next.

And afterwards, to wit, on said fifth day of April, A. D. 1841, was issued a writ of subpœna, as follows, to wit:

UNITED STATES OF AMERICA,

District court of the United States,
for the middle district of Alabama:

The President of the United States to the marshall of said district, greeting:

You are commanded to summon James Gray, who is impleaded with

Joseph J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo Sexton, and Ann R. Gray, (now Ann R. Sexton,) who is a citizen of the State of Alabama, personally to appear at rules, to be held in the clerk's office of said court, at Tuscaloosa, on the first Monday of May next, to answer bill of complaint preferred against them, the said Joseph J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo Sexton, and Ann R. Gray, (now Ann R. Sexton,) and said James, in said district court, exercise chancery jurisdiction, by John G. Nelson, Charles G. Carleton, and William H. Stewart, partners by the name of Nelson, Carleton & Co., and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, partners by the name of Parish, Marshall & Co., all of whom are citizens of the State of New York. Herein fail not, and have you then and there this writ.

Witness the hon. William Crawford, judge of the said court, this first Monday after the fourth Monday of November, in the year of our Lord one thousand eight hundred and forty. Issued the [L. S.] fifth day of April, in the year of our Lord one thousand eight hundred and forty-one.

Attest, A. G. GOOCH,
D. C. U. S. Middle district, Alabama.

Received 12th April, 1841. Executed same day on James Gray.
R. L. CRAWFORD, *U. S. Marshal,*
By J. A. BEAL, *D. M.*

At May term, 1841, of said court, this cause was continued. And afterwards, to wit, on the first Monday of July, A. D. 1841, at rules, holden in the clerk's office of said court, the following order was made, to wit:

NELSON, CARLETON & Co., and Parish, Marshall & Co., complainants,
vs.
JOHN J. HILL, et al., defendants.
} In chancery.

On application of complainants, by their solicitors Wallace and Porter, leave is granted them to file an amended bill in this cause. And on the 2d day of August, A. D. 1841, said complainants filed their amended bill in the words and figures following, to wit:

To the honorable William Crawford, judge of the district court of the United States for the middle district of Alabama.

The amended bill of Nelson, Carleton & Co. and Parish, Marshall & Co. against James Gray, administrator, and Lorenzo L. Sexton, administrator in right of his wife Ann R., formerly Ann R. Gray, the said James Gray and Ann R. having taken out letters of administration on the goods and chattels, &c., which were of Thomas Gray, deceased, in his lifetime, and against Absalom Hardin and John P. Lipscomb, administrators of the goods and chattels, &c., which were of William H. Whitsett, deceased, in his lifetime, and Joseph J. Hill, defendants, filed by leave of first had and obtained.

trict of Alabama, the aforesaid Lorenzo L. Sexton and Anne R. Sexton, who being, severally and respectively, duly sworn, say, on oath, that the foregoing answer is true, in substance and in fact.

LORENZO L. SEXTON,
ANNE R. SEXTON.

Sworn and subscribed before me, the 1st day of December, 1840.
A. G. GOOCH, *Clerk.*

And afterwards, to wit, on the 7th day of December, A. D. 1840, being a day of the term of said court, begun and held for said district, on the first Monday after the fourth Monday of November, A. D. 1840. Present, the hon. William Crawford, judge of said court. The following order was made in this court, to wit:

NELSON, CARLETON & Co., and Parish, Marshall & Co. vs. JOSEPH J. HILL, et al. } In Chancery.

"It is ordered by this court that this cause be continued. And afterwards, to wit, on the first Monday and fifth day of April, A. D. 1841, at rules, holden in the clerk's office of said court, the following proceedings were had in this case, to wit:

NELSON CARLETON & Co., and Parish, Marshall & Co. compl'ts, vs. JOSEPH J. HILL et al., defts. } In chancery.

It appearing from the answer of Lorenzo Sexton and Ann R. Sexton, to the complainant's bill, that James Gray administered with Ann R. Gray, now Ann R. Sexton, on the estate of Thomas Gray, deceased, complainants, by Wallace and Porter, their solicitors, now move that the said James Gray be made a party defendant to this bill, and that a writ of subpœna issue, commanding the said James Gray to appear in this honorable court, answer the allegations in complainant's bill, and abide by the final decision of said court in this cause.

WALLACE & PORTER, *Solicitors.*"

Whereupon it is ordered, that said James Gray be made a party defendant to the bill of said complainants, and that a writ of subpœna issue to the said James Gray, returnable at rules, on the first Monday of May next.

And afterwards, to wit, on said fifth day of April, A. D. 1841, was issued a writ of subpœna, as follows, to wit:

UNITED STATES OF AMERICA,

District court of the United States, for the middle district of Alabama:

The President of the United States to the marshall of said district, greeting:

You are commanded to summon James Gray, who is impleaded with

Joseph J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo Sexton, and Ann R. Gray, (now Ann R. Sexton,) who is a citizen of the State of Alabama, personally to appear at rules, to be held in the clerk's office of said court, at Tuscaloosa, on the first Monday of May next, to answer bill of complaint preferred against them, the said Joseph J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo Sexton, and Ann R. Gray, (now Ann R. Sexton,) and said James, in said district court, exercise chancery jurisdiction, by John G. Nelson, Charles G. Carleton, and William H. Stewart, partners by the name of Nelson, Carleton & Co., and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, partners by the name of Parish, Marshall & Co., all of whom are citizens of the State of New York. Herein fail not, and have you then and there this writ.

Witness the hon. William Crawford, judge of the said court, this first Monday after the fourth Monday of November, in the year of our Lord one thousand eight hundred and forty. Issued the [L. S.] fifth day of April, in the year of our Lord one thousand eight hundred and forty-one.

Attest, A. G. GOOCH,
D. C. U. S. Middle district, Alabama.

Received 12th April, 1841. Executed same day on James Gray.
R. L. CRAWFORD, *U. S. Marshal*,
By J. A. BEAL, *D. M.*

At May term, 1841, of said court, this cause was continued. And afterwards, to wit, on the first Monday of July, A. D. 1841, at rules, holden in the clerk's office of said court, the following order was made, to wit:

NELSON, CARLETON & Co., and Parish, Marshall & Co., complainants, vs. JOHN J. HILL, et al., defendants. } In chancery.

On application of complainants, by their solicitors Wallace and Porter, leave is granted them to file an amended bill in this cause. And on the 2d day of August, A. D. 1841, said complainants filed their amended bill in the words and figures following, to wit:

To the honorable William Crawford, judge of the district court of the United States for the middle district of Alabama.

The amended bill of Nelson, Carleton & Co. and Parish, Marshall & Co. against James Gray, administrator, and Lorenzo L. Sexton, admininistrator in right of his wife Ann R., formerly Ann R. Gray, the said James Gray and Ann R. having taken out letters of administration on the goods and chattels, &c., which were of Thomas Gray, deceased, in his lifetime, and against Absalom Hardin and John P. Lipscomb, administrators of the goods and chattels, &c., which were of William H. Whitsett, deceased, in his lifetime, and Joseph J. Hill, defendants, filed by leave of first had and obtained.

Humbly complaining, shew to your honor, your orators John G. Nelson, Charles G. Carleton, and William H. Stewart, partners by the name of Nelson, Carleton & Co., who are citizens of the State of New York, your orators Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, who are citizens of the State of New York, and partners by the name of Parish, Marshall & Co., that heretofore, to wit, in the year 1834, a certain firm existed in the State of Alabama, trading and doing business as merchants, composed of William H. Whitsett, Thomas Gray, and John J. Hill, and who used the name and style of Whitsett, Gray & Co.; that the said firm became *en*debted to your orators, Nelson, Carleton & Co., in the sum of ten hundred and sixty-one $\frac{36}{100}$ dollars, and gave their note therefor, dated 17th May, 1834, in the city of New York, where the said debt originated, and due at nine months after date. Your orators further shew to your honor, that the same firm became *en*debted to your orators, Parish, Marshall & Co., in the city of New York, in May, 1834, and *gave* their partnership notes to your orators, bearing date the 10th May, 1834, and due nine months after date, for fourteen hundred and seventy $\frac{95}{100}$ dollars; their certain other note, due at eleven months after date, for the amount of $1,470; also a bill of exchange for nineteen hundred and one $\frac{56}{100}$ dollars, dated 17 May, 1834, and due at four months, on John C. Sims & Co., drawn by Whitsett & Gray, which firm of Whitsett & Gray was composed of the said William H. Whitsett and Thomas Gray, citizens of the State of Alabama, as aforesaid. Also, their certain note of Whitsett & Gray aforesaid, dated November 10th, 1832, due at twelve months, payable to White, Brothers & Co., for three hundred and thirty-one $\frac{46}{100}$ dollars; all of which debts were contracted, and the notes and bills aforesaid given, your orators aver, in the city of New York, without the limits of the State of Alabama. That being so *en*debted as aforesaid, suits were instituted by your orators, Nelson, Carleton & Co., in the district court of the United States, for the southern district of Alabama, and judgement rendered at the December term, 1835, against John J. Hill, who was sued by the name of Joseph J. Hill, surviving partner of the firm of Whitsett, Gray & Co., for the sum of eleven hundred and thirty-nine dollars; and suits were *were* commenced by your orators, Parish, Marshall & Co., against the said firm, and two judgements rendered against the said Hill on the first named notes for the sum of sixteen hundred and seventeen $\frac{75}{100}$ dollars, and fifteen hundred and eighty-seven dollars forty-five cents, at the May term, 1836, of said court, besides costs in the several cases. Your orators, Parish, Marshall & Co., further shew to your honor, that no suit has been brought upon the said draft for nineteen hundred one $\frac{56}{100}$ dollars; nor on the said note of Whitsett & Gray, for the cause hereinafter stated. That said draft was protested for non-acceptance, and due notice given to the drawers, Whitsett, Gray & Co., and in addition that there were no funds of the drawers in the hands of the drawees, and that in addition they had no right or expectation to suppose that the said draft would be accepted or paid, and that they wrote to the said John

C. Sims & Co. to refuse acceptance; that the said draft was not met at maturity, and that a protest thereof, after a regular demand on the day when it became due, was made and notice given to said drawers.

Your orators further shew unto your honor, that the said William H. Whitsett is dead, having departed this life in the year 1836, and that Thomas Gray died in the year 1835, leaving John J. Hill surviving partner; that the estate of William H. Whitsett is represented by John P. Lipscomb and Absalom Hardin, who have the administration of the goods and chattels rights of the same, and are citizens of the State of Alabama; that they represent the said estate to be insolvent.

Your orators further show, that executions have been against the said J. J. Hill, the surviving partner, who is a citizen of the State of Alabama, and have been returned by the marshal, no property found; and your orators therefore shew to your honor that he is insolvent.

Your orators further shew to your honor, that the estate of Thomas Gray has fallen into the hands of Ann R. Gray and James Gray, who are citizens of the State of Alabama, who have administered on the goods and chattels, rights and credits, which belonged to him the said Thomas Gray at the time of his death.

Your orators further shew, that since the commencement of this suit, the said Ann R. Gray has intermarried with Lorenzo L. Sexton, who is a citizen of the State of Alabama; that the estate is entirely solvent, and fully adequate to the payment of your orators' debts. But now so it is, may it please your honor, the said John J. Hill, John P. Lipscomb, Absalom Hardin, James Gray, Lorenzo L. Sexton and Ann R. his wife, combining and confederating with persons unknown to your orators, but who, when known, your orators pray may be made parties to this bill, with apt words to charge them, sometimes pretend that John J. Hill is entirely solvent, and able to pay the said demands; but if he is so, your orators charge that he has made deeds incumbering his estate, and burthening it in such a manner as to prevent its sale by execution; and, also, that he has his property so secured that the marshal was not able to find it; and if he has property, your orators still stand in need of the process of this court to ascertain the same. But your orators believe that this is a mere pretence of the said confederates; and at other times they pretend that, although the said Hill is insolvent, yet the other partners are exonerated, because the claims were not exhibited in 18 months after administration on the respective estates was committed. But your orators charge, in answer to this poor pretence, that their debts were created in *in* the State of New York, and that your orators all reside beyond the limits of the State of Alabama, and have resided since the debts were created; and that they had well hoped to have made their debts out of the said Hill; and at other times the said confederates state that the said estates have been settled, and that they have no funds in hands, and no goods and chattels out of which the same can be satisfied. But your orators state to your honor, that these pretences are untrue, that the defendants are fully able to pay your orators' judgments and debts out of the estate of Whitsett and Gray; that, although the said Lipscomb and

Hardin have sold the personality of said estate, yet they have notes and money to an amount fully sufficient to pay their proportion of the said debts, and that they, Lorenzo L. Sexton and Ann R. his wife, are in the possession of slaves and other property of the intestate, all of which are liable to the payment of these debts; and that the said James Gray is no[w in] the possession of slaves, notes, money, and other property, of his intestate, more than enough to satisfy *and* the debts due to your orators, and that he has the bond, agreement, or other security of the said Lorenzo L. Sexton to indemnify him against liability for your orators' debts, by virtue of which your, the said Lorenzo, retains possession and control of a large amount of the estate of the said Thomas Gray, deceased, but liable to be surrendered to the said James Gray, or given up in discharge of orators' debts, in the event a recovery should be had in this suit; all of which pretences, therefore, they say are contrary to equity and good conscience.

In tender consideration whereof, and for as much as your orators are remidiless at law, and have no redress save in a court of chancery, to the end, therefore, that the said John P. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton and Ann R. his wife, and James Gray, may be made defendants to this bill, and answer the allegations thereof, and particularly that they may answer whether the said John J. Hill is solvent, or otherwise; and if he is solvent, that he may set forth the description of his estate in lands, by the section, township, and range; whether any mortgages, deeds of trust, assignment, or other incumbrances exist upon it, and whether he has slaves or personal property; and that he may set forth if any mortgages, deeds of trust, or other incumbrances exist upon them; and that he now state, on oath, what amount is due on each, and whether the said Hill has not been sued as surviving partner, as stated as aforesaid; and that they may further answer as to the estates of the said William H. Whitsett and Thomas Gray, what property there is, and in whose hands, and if any settlement of the estate has been made; and whether a sufficient amount of the estate of the said Thomas Gray is not reserved to pay orators' claims in the event of a recovery, and what has been done, or agreed to be done, in relation to the same; and that they set forth particularly the *the* means of paying your orators' debts; that they may answer when the said William H. Whitsett and Thomas Gray died, and when any distribution of said estate, if any, was made.

Your orators pray that accounts be taken that your orators' demand, and the demand of such of the creditors of Whitsett & Gray, and Whitsett, Gray & Co., may be established as debts against the estates as will come in and contribute to the costs and expenses of this suit; and your orators pray *payment* of the same, and writs of subpœna may issue to the said several defendants, and for such other and further relief as is consistent with equity and good conscience.

WALLACE & PORTER,
Solicitors for complainants.

And afterwards, to wit, on the 31st day of August, A. D. 1841, the following writ of subpœna was issued, to wit:

UNITED STATES OF AMERICA.

District court of the United States for the middle district of Alabama, the President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton and Ann R. his wife, and James Gray, who are citizens of the State of Alabama, personally to appear before the honorable the judge of the said district court, exercising chancery jurisdiction, at the place of holding said court at Tuscaloosa, on the first Monday after the fourth Monday of November next, to answer an amended bill of complaint prepared against them the said John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton and Ann R. his wife, and James Gray, by John G. Nelson, Charles G. Carleton, and William H. Stewart, partners, by the name of Nelson, Carleton & Co., who are citizens of the State of New York, and Henry Parish, Daniel Parish, John R. Marshall, John B. Seaman, Thomas Parish, and Leroy M. Wiley, who are citizens of the State of New York, and partners, by the name of Parish, Marshall & Co.

Herein fail not, and have you then and there this writ.

Witness the honorable William Crawford of the said court, this fourth Monday of May, in the year of our Lord one thousand eight hundred and forty-one. Issued the thirty-first day of August, in the year of our Lord one thousand eight hundred and forty-one.

Attest: A. G. GOOCH,
Clerk D. C. U. S. mid. dist. Alabama.

Received 4th September, 1841. Executed on James Gray, J. J. Hill, Ann R. Sexton, and Lorenzo L. Sexton, John P. Lipscomb, and A. Hardin, 8th September, 1841.

R. L. CRAWFORD, *U. S. marshal.*
By J. A. BEAL, *D. M.*

And afterwards, to wit, on the first day of November, A. D. 1841, said defendant, James Gray, filed a demurrer to the bill and amended bill of complaints in this cause, as follows, to wit:

In chancery, in the district court of the United States for the middle district of Alabama, held in the city of Tuscaloosa, in said district.

The seperate demurrer of James Gray, one of the defendants to the bill and amended bill of complaints of Nelson, Carleton & Co., and Parish, Marshall & Co., complainants. This defendant, by protestation, not confessing all or any of the matters and things in the said complainants' said bill and amended bill of complaint contained to be true, in such manner and form as the same are therein set forth and alledged, doth demur to the said bill and amended bill, and for causes of demurrer sheweth—

I. That the said complainants have not by their said bill, and amend-

ed bill, made such a case as entitles them in a court of equity to any discovery from this def't, or any relief against him as to the matter contained in the said bill, and amended bill, &c.

II. That the complainants have joined in their bill, and amended bill, distinct matters which, according to law and the practice of this court, ought not to be joined, &c.; that is to say, have joined matters against the late firm of Whitsett & Gray, composed of Wm. H. Whitsett, deceased, and Thomas Gray, deceased, with matters against the late firm of Whitsett, Gray and Co., composed of the said Whitsett & Gray and one John J. Hill, the said John J. Hill having no interest in the matter against the said late firm of Whitsett & Gray. " 3d. They have joined matters of debt against said late firm, Whitsett and Gray, created by note, payable to certain persons using the name and style of White, Brothers & Co., to which debt the said complainants, or either of them, have any interest, as far as appears by their said bill or amended bill, and in which the said defendant Hill is in no wise interested, nor in any wise liable, &c.

III. The complainants' bill, and amended bill, do not shew that complainants had exhausted their remedy at law before coming into this court in such manner as to entitle them to the aid of this honorable court as a court of chancery, &c. Wherefore, for the foregoing causes, and for divers other causes of demurrer appearing in the said bill, and amended bill, this defendant doth demur thereto; and he prays the judgment of this honorable court whether he shall be compelled to make further and other answers to the said bill; and he humbly prays to be dismissed from hence with his reasonable cost in this behalf sustained.

PECK & CLARK,
Solicitors and counsels for the def't James Gray.

And on the 2nd day of December, A. D. 1841, said defendants, John P. Lipscomb and Absalom Hardin, filed their answer to the amended bill of said complainants, in the words and figures following, to wit:

The seperate answer of John P. Lipscomb and Absalom Hardin, administrators of William H. Whitsett, deceased, to the amended bill of Nelson, Carleton & Co. and Parish, Marshall & Co., filed and exhibited against the said respondents and others in the district court of the United States for the middle district of the State of Alabama, held at Tuscaloosa. These respondents, saving, &c., excepting, &c., nevertheless, for answer to the said amended bill of the said complainants, filed and exhibited as aforesaid, or to so much or such parts thereof as they, the said respondents, are advised and believe it material for them to make answer unto, answer and say, that they have been informed and believe there was formerly in existence such a firm as Whitsett, Gray & Co., composed of the several persons mentioned in the said amended bill; that they do not know when it was formed; and they only know, from what they have heard, that it existed at all; that it continued, as they have understood, a very short time; and they do not believe the said firm ever did or transacted any business whatever in the State of Alaba-

ma, but was in fact dissolved almost as soon as formed; that the said William H. Whitsett and Thomas Gray are both dead, as these respondents have heretofore fully answered, leaving the said John J. Hill surviving. These respondents, as they have already answered, know nothing whatever of any debts contracted by the said firm to the complainants, or either of them, by notes or otherwise, as they the said complainants have stated; nor do they admit that any such ever were; and they deny that the said firm of Whitsett, Gray & Co. ever became indebted to the said complainants, Parish, Marshall & Co., by a bill of exchange for nineteen hundred and one dollars and fifty-six cents, drawn by the firm of Whitsett & Gray on John C. Sims & Co., as stated in the said amended bill, or by a certain note of the said Whitsett & Gray, payable to White, Brothers & Co., for three hundred and thirty-one dollars and forty-six cents, as stated also in the said amended bill. These respondents say that, if any such bill or note was ever given, which they by no means admit, the same were the proper bill and notes of the said Whitsett & Gray, and not of Whitsett, Gray & Co.; that the said firms were seperate and distinct, although composed in part of the same persons. These respondents know nothing of any suits being commenced on either of the liabilities mentioned in the said amended bill, except on the bill of exchange for nineteen hundred and one dollars and fifty-six cents alle*d*ged to be drawn by Whitsett & Gray on John C. Sims & Co., as aforesaid—as to which these respondents, to their utter surprise, have been informed, that a suit had been commenced against them as administrators of the said William H. Whitsett, surviving partner of Thomas Gray, deceased, founded on the said bill; and that a judgement had been rendered in said suit against them in the district court of the United States, for the southern district of Alabama, held at Mobile; although, as these respondents most positively say, that no writ in said suit was ever served or executed on them; nor where they, in fact, ever legally notified or informed of the commencement or pendency of said suit; the first information they had of it was obtained by the presentation of an execution against them, founded on the judgement obtained in the said suit; they do not know certainly at what term of said court the said judgement was obtained; but, as they have understood and bel*e*ive, it was at the December term of the said court, held A. D. 1836; and, so far as they know or are advised, the said judgement still remains in force against them; the said Parish, Marshall & Co., having commenced suit or action against them, in *in personam* in this honorable court, founded on the said judgement, and suggesting a devastavit which action is still pending and undetermined; all of which these respondents are prepared to shew by the proceedings in said suits remaining in the said court respect*fully* of record—as to any suits or judgements against John J. Hill, as the surviving partner of the firm of Whitsett, Gray & Co., these respondents know nothing whatever. Further answering, these respondents say, they know nothing whatever of the refusal of the said John C. Sims & Co. to accept the aforesaid bill of exchange, nor that it was ever presented to them for that purpose, nor, if presented, that

it was presented at the maturity thereof, nor that it was ever protested for non acceptance, or due notice given of the same, neither do they know or beleive that the said drawees were ever written to not to accept the said bill, nor that the drawees had no effects of the drawers in their hands, nor that the drawers had no right or expectation to suppose that the said bill would not be accepted as stated in the said amended bill, nor do they know that the said bill was not met at maturity, nor that a demand of payment thereof was then made, nor that the said bill was protested for non payment or notice given of the same, nor have they any beleif that such facts took place. Further answering, these respondents deny that they have represented the estate of the said William H. Whitsett, as insolvent, except as is fully and *and* particularly shewn in and by their answer to the original bill of the said complainants filed in this cause, to which they beg leave particularly to refer as an answer to the said amended bill. These respondents know nothing whatever of any executions having been issued against the said John J. Hill, nor of their having been returned "no property found as stated in the said amended bill;" and they deny that the said John J. Hill is insolvent; on the contrary, they have been informed and beleive that he has property and effects, and was considered good by those having dealings and transactions with him; but what particular description of property or effects the said John J. Hill owns, or is *possed* of, these respondents have no certain knowledge or information; nor has he, so far as they know or beleive, ever incumbered his property in any way, so as to prevent it being made liable and subjected to the payment of his debts. One of these respondents, John P. Lipscomb, made particular inquiry of the clerk of the county court, of Greene county, (the county in which the said John P. Hill resides, whether there were any incumbrances on the property of the said Hill of record in his office, and was assured by the said clerk that there were none.

Further answering, these respondents say, that they have never stated that the estate of their intestate was settled, otherwise than is shewn in and by their answer to the original bill of the said complainants; and by *was* of addition to what is therein stated, in relation to the situation and condition of the estate of their intestate, they now say, that there now are in the office of the clerk of the county court of Marengo county, and in the custody and control of said court, certain promissory notes, belonging to the said estate, made by Benjamin N. Glover and others, amounting, in the whole, to the sum of twenty-four hundred dollars, given and executed in consideration of the interest or share of the said William H. Whitsett in a certain warehouse, and the lot or lots thereto attached, situated in the town of Demopolis, in the county of Marengo, sold, on the application of these respondents, since they filed their answer to the original bill in this cause, by order of the said county court of Marengo; the said notes are all believed to be good, and will be available to the creditors of the said estate, when they mature; part of the said notes are now due, and part not; but they do not know in what proportion. These respondents are not entitled to the possession or con-

trol of the said notes, as they have not given bond and security for that purpose, as required by an act of the general assembly of the State of Alabama, in such case made and provided; nor do they intend giving such bond and security. They also say, that the said William H. Whitsett, at the time of his death, owned several lots in a place called Jones' Bluff, in the county of Sumter, which have been sold under an order of court, made for that purpose, on the application of these respondents, for about the sum of nine hundred dollars; but that the commissioners, by whom they were sold, have not made any return of the said sale, or of any notes taken by them on account thereof; and whether the proceeds of said sale will be available to the said estate, these respondents cannot say. Nothing whatever has come to their hands to be administered on account of the said sale, nor are they entitled to receive any thing, having executed no bond for that purpose. They have been informed, also, that the said William H. Whitsett, at the time of his death, owned an undivided moiety of a lot and warehouse in the said place, called Jones' Bluff; but they have never been able to find among his papers any *instrument* or evidence of title therefor, nor have they been able to ascertain that any existed. What the said moiety or interest is worth, these respondents are not prepared to say, but they suppose not much; and unless some evidence of title can be found, shewing the right and estate of the said William H. Whitsett, in and to the said lot and warehouse, they do not know that it would be worth anything. The said William H. Whitsett, also, at the time of his death, held a receipt or certificate of final payment from the Government of the United States to himself, for a fraction of land, containing one hundred and eighty-three acres, lying on the east side of the Black Warrior river, in the southern part of the county of Greene, adjoining certain lands belonging to the heirs of one William Myers, deceased, and which they are not now capable of describing more accurately. One Isaac C. Snedicor, as they are informed, claims a moiety or undivided half of the said fraction or tract of land, under some contract or agreement made by him with the said Whitsett in his lifetime, but never having seen the contract or agreement, they cannot *they* discribe it with greater certainty, nor do they know whether it is binding and valid, or not; the right of the said William H. Whitsett to a part of said land has been contested, at the instance of one James May, before the Commissioner General of the Land Office of the United States, at the city of Washington; but what the result of said contest will be, these respondents are wholly unable to say. They applied to the county court of Marengo county, for an order to sell the said land, which was accordingly made, and commissioners appointed to make the sale, but they not only neglected, but absolutely refused, to make sale of the said land, under the order of court made for that purpose, and the matter there rests—no further steps having been taken. They *are no* certainly known what the value of said land is, but they suppose, that if the title were unembarrassed, it would sell for about five dollars per acre; but situated as the title is, they think it would not probably bring half that sum, if, indeed, it could be sold for any thing of importance.

These respondents further say, that they have been recently informed by John W. Henly, esq., of Demopolis, that he has in his hands the sum of six hundred dollars, in money which he had collected, belonging to the said estate; and of the effects of the firm of Whitsett & Gray, there is in suit in the circuit court of Clark county, a draft on one E. H. Dubose and others, for about the sum of seven hundred and fifty dollars; but whether it will be collected or not, these respondents do not know. Having made this additional shewing as to the estate of the said William H. Whitsett, and the assetts or effects of the said Whitsett & Gray, these respondents, in justice to themselves, beg leave to say, that they have been sued, as the administrators of said William H. Whitsett, deceased, in the circuit court of Greene county, by the mercantile firm of Bright & Ledyard, of Mobile, for about the sum of six hundred and fifty dollars, due as alledged, by a promissory note, made by the said firm of Whitsett & Gray; also, for four hundred and fifty dollars, in favor of Wm. C. Cobb, administrator, on open account, which suits are now pending, but will be determined, as these respondents beleive, at the next term of the said court, to be held on the first Monday [in] March next. They have also been sued in the same court by one George B. O'Neal, on a promissory note, for the sum of five hundred and twenty-five dollars, made, as is alledged, by the firm of William H. Whitsett & Co., of which their intestate was a member; the said last mentioned suit is still pending, and will be determined at the next term of the said circuit court. Several judgements have also been obtained against them, as administrators as aforesaid, in the circuit court of Greene county, which remain in full force and effect, and which they are bound to pay; that is to say, one in favor of Joseph W. Moore, for the sum of about three hundred and twenty-five dollars; and one in favor of one Glenn, for about the sum of two hundred and twenty-five dollars; all of which said several suits and judgements, these respondents are ready to prove by the proceedings had in, and in relation to, the same, respectively, in the said circuit court, and remaining of record therein.

Further answering, these respondents say, that taking into consideration and account all the claims and debts for which the estate of the said William H. Whitsett is liable, and the assetts and effects belonging to the same, they are well convinced that the said estate is wholly unable to pay, and insufficient to pay, the said debts and claims against it, now remaining due and unpaid; and they deny, that they have in their hands in notes and money, or either, sufficient to pay the share of the said Whitsett of the said debts and demands of the said complainants. These respondents have made no distribution of the estate of the said William H. Whitsett, other than by paying the debts due from the same, whenever they have had in their hands the means of doing so, as shewn by their answer to the original bill in this cause. Nor do they expect to make any distribution other than in payment of debts, so far as the means of doing so has, or may, come to their hands; and these respondents now ask, that this their answer to the said amended bill of the said complainants may be taken and considered, as well a demurrer as

an answer thereto, and they hereby demur to the same; therefore, having fully answered, they pray, as heretofore, to be hence dismissed with their reasonable costs.

JNO. ERWIN,
Sol. for respondents.

THE STATE OF ALABAMA *Greene county:*

Personally appeared before me a justice of the peace, in and for the county of Greene, John P. Lipscomb and Absalom Hardin, who being first duly sworn, make oath and say, that the facts and circumstances stated and contained in the foregoing answer as made by them are true; those of their own knowledge, absolutely so, and those not of their own knowledge, they believe to be so.

JOHN P. LIPSCOMB,
A. C. HARDIN.

Sworn to and subscribed before me, this 27th day of November, 1841.
HENRY WATSON, J. P. [SEAL.]

And on the 4th day of December, A. D. 1841, defendant John J. Hill, filed the following answer to said complainants' amended bill, to wit:

In the district court of the United States for the middle district of the State of Alabama, November term, 1841.

The seperate answer of John J. Hill to the amended bill of complaint, exhibited against himself and others, defendants, by Nelson, Carleton & Co., and others, complainants, in the district court of the United States, for the middle district of the State of Alabama.

This respondent, saving and reserving to himself all benefit of exception to the many errors and insufficiencies in said bill contained, for answer thereto, or so much thereof as he is advised it is material for him to answer unto, answering, saith: That it is true, as stated in the complainants' bill, that from about the first of January, 1834, until about the 1st of August, 1834, this respondent, (who, during all that time was a minor) was a partner with Thos. Gray, dec'd, and Wm. H. Whitsett, dec'd, in mercantile business, under the firm of Whitsett, Gray & Co.; for the manner in which this respondent entered into and retired from said firm, this respondent refers to his answer to the original of the complainants' [bill] filed in this cause. The said William H. Whitsett and Thomas Gray had been partners in mercantile business, in the town of Demopolis, under the firm of Whitsett & Gray, previous to the 1st of January, 1834, and previous to this respondent's becoming a partner in the business; and this respondent denies that he was a partner in the said firm of Whitsett & Gray, or is in any manner liable for the bill of exchange, and note of the said firm of Whitsett & Gray, in the complainants' amended bill specified. And this respondent further answering, saith, that he does not know, of his own knowledge, where the several debts in the complainants' bill specified were created, or *were* the said several bills of

exchange and promissory notes were drawn or made, but according to the best of his information and belief the said debts were contracted, and the said notes and bill of exchange, respectively, were made and drawn in the city and State of New York. This respondent denies that he has made any mortgage, deed of trust, or other conveyance of his property, to avoid the payment of the complainants' claim. This respondent has no seperate property of his own; he has an undivided interest in the estate of his late father, Greene Hill, deceased, which is still unsettled and undivided, as stated in this respondent's answer to the complainants' original bill heretofore filed in this cause, and to which this respondent refers as part of this answer. This respondent would further state, that he has intermarried with one Celestia A. Pope, a daughter of Willis Pope, deceased; that by the will of the said Willis Pope, a certain portion of his estate was given to his widow, and a certain other portion was set apart for the payment of his debts, and the residue of said last mentioned portion, after the payment of debts, was given by said will to the children of said Pope, of whom the wife of this respondent is one. This respondent is informed and believes, that a very large portion, or probably the whole of such last mentioned portion of the estate of said Willis Pope, deceased, will be consumed in the payment of his debts; in the residue (if any there should be) this respondent in right of his wife has an interest.

This interest in the estate of Willis Pope, deceased, and the aforesaid interest of this respondent in the estate of Greene Hill, deceased, constitute all the property and estate of this respondent; this respondent is advised, and insists, that the several complainants in said original and amended bill, had no right to *united* their several claims in one suit, and that they had no right to embrace in the same suit, claims against the several and distinct firms of Whitsett & Gray, and Whitsett, Gray & Co., and that they had no*t* right to proceed on said claims until judgment at law had been obtained on each of said claims respectively; and this respondent claims like benefit of this objection, as if the same had been taken by plea or demurrer.

This respondent denies all frauds and combinations, in the complainants' bill alleged; and having fully answered, prays to be hence dismissed, with his reasonable costs, &c.

MURPHY & JONES,
Sol's for respondent.

This day, personally appeared in open court, John J. Hill, who being sworn, saith on oath that the foregoing answer is true.

Sworn to and subscribed before me, the 4th December, 1841.

A. G. GOOCH, *Clerk.*

And now at this day, to wit, at the term of said district court first aforesaid, begun and held for said middle district of Alabama, at Tuscaloosa, on the first Monday after the fourth Monday of November, and on the eighth day of December, in the year of our Lord one thousand eight hundred and forty-one, the honorable William Crawford judge of said court presiding, the following proceedings were had in this cause, to wit

NELSON, CARLETON & Co., and Parish, Marshall, & Co., Complainants
vs.
JOHN J. HILL, et al. deft's.
} In Chancery.

This day came the parties, by their solicitors, and the demurrer of the defendant, James Gray, coming on to be heard, and after argument of counsel had thereon, and the questions of laws arising upon said demurrer being understood by the court, it seems to the court that the said demurrer ought to be sustained.

It is therefore ordered, adjudged and decreed, that the bill and amended bill of said complainants be dismissed, but without prejudice. And it is further ordered, adjudged and decreed, that the said complainants pay to the said defendants the cost, by them about their defence in this behalf expended.

I, Albert G. Gooch, clerk of the district court of the United States for the middle district of Alabama, hereby certify that the foregoing is a true and complete transcript of the record and proceedings of *of* said district court, in a certain suit in chancery, lately determined therein, in which Nelson, Carleton & Co., and Parish, Marshall & Co., were complainants, and John J. Hill, John P. Lipscomb, Absalom Hardin, Lorenzo L. Sexton, and Ann R., his wife, and James Gray, were defendants, together with a true copy of the petition of said complainants, for an appeal to the circuit court of the United States for the ninth judicial circuit and southern district of Alabama, from the final decree of said *court* district court, dismissing the bill of said complainants; and also a true copy of the order allowing the said appeal, and of the bond given by said complainants, agreeable to said order; all of which appears from the records of said district court now remaining in said clerk's office.

In testimony whereof, I have hereto put my hand, and affixed the seal of said district court, at office, in the city of Tuscaloosa, this [L. S.] nineteenth day of October, in the year of our Lord one thousand eight hundred and forty-two.

A. G. GOOCH,
Clerk D. C. Mid. Dist. Ala.

NELSON, CARTER & Co., Parish, Marshall & Co.,
vs.
JOHN J. HILL, survivor.

The plaintiffs in error come, by their attorney, and pray judgment of the judgment and proceedings in the district court aforesaid, and say that the said decree, and in the said proceedings, there is manifest error, in this: that the bill of the plaintiffs in the said district court was dismissed, whereas, by the law of the land, the decree should have been for the plaintiffs, according to the prayer of the bill; and, for the cause aforesaid, the plaintiffs pray judgment, and that said decree be reversed.

CAMPBELL, *for pl'ffs.*